Bill as Introduced

HB 221-FN – AS INTRODUCED

2003 SESSION

03-0694
09/01

HOUSE BILL ***221-FN***

AN ACT prohibiting the courts from charging fees.

SPONSORS: Rep. Marple, Merr 37; Rep. L. Christiansen, Hills 66; Rep. McElroy, Hills 61

COMMITTEE: Judiciary

ANALYSIS

This bill prohibits state courts from charging fees for services, filings, and copies.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 221-FN – AS INTRODUCED

03-0694
09/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT prohibiting the courts from charging fees.

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

1 Court Fees Prohibited. RSA 490:26-a is repealed and reenacted to read as follows:

490:26-a Court Fees Prohibited. No court shall charge a fee for any service, filing, or copy. This prohibition codifies the same prohibition now enumerated in part 1, article 14 of the bill of rights of the New Hampshire constitution.

2 Reference Deleted. Amend RSA 611:3 to read as follows:

III. All state departments and institutions, except the university system of New Hampshire[~~,~~] ***and*** the building projects revolving fund of the state board of education, [~~and the supreme court for the purposes of the escrow account for court facility improvements under RSA 490:26-c,~~] receiving money for the state shall deposit the full amount of all such moneys into a state treasurer's bank account or into a state department's bank account from which the treasurer shall collect funds by automated means, unless the treasurer determines that such means cannot be implemented or concurs with department procedures for deposits and collection.

3 Reference Deleted. Amend RSA 548:5-a to read as follows:

I. A fiduciary appointed by the probate court shall file, as required by law, an inventory within 90 days after the date of appointment, or an account of administration within one year after the date of appointment. If a fiduciary fails to file an inventory within 30 days after the required filing date, or an account of administration within 90 days after the required filing date, the fiduciary is in default. The register of probate shall give notice of the default to the fiduciary by first class mail within 10 days after the default. In the case of any inventory, account, annual report, statement of voluntary administration, or waiver of administration affidavit, the fiduciary shall either file the inventory, account, annual report, statement of voluntary administration, or waiver of administration affidavit, or show good cause for the failure to file, within 30 days after notice of the default from the register. If the fiduciary fails to file or to show good cause, the judge of probate shall issue a citation to the fiduciary to appear before the judge pursuant to RSA 550:2. [~~The fiduciary shall pay default and citation fees as established by the supreme court under RSA 490:26-a to the register of probate, pursuant to RSA 490:27.~~] The requirements of this section shall apply to fiduciaries previously appointed as the judges of probate may prescribe by rules adopted pursuant to RSA 547:33.

4 Repeal. The following are repealed:

I. RSA 6:12, I(nnnn), relative to moneys to be deposited in the court facilities escrow fund.

II. RSA 6:12, I(lllllllll), relative to moneys to be deposited in the probate court mediation fund.

III. RSA 490:26-a, relative to court fees established by supreme court rules.

IV. RSA 490:26-c, relative to the escrow fund for court facility improvements.

V. RSA 490:27, relative to probate court fees.

VI. RSA 499:18, relative to superior court fees.

VII. RSA 502-A:28, relative to district court fees.

VIII. RSA 524-A:5, relative to fees for filing a foreign judgment.

IX. RSA 548:23-a, relative to probate court entry fees.

X. RSA 550:10, IV, relative to fees charged to fiduciaries by the probate court for notices pertaining to estates.

XI. RSA 623-B:2, relative to filing fees and court costs in civil actions by inmates.

5 Effective Date. This act shall take effect January 1, 2004.

LBAO
03-0694
1/7/03

HB 221-FN - FISCAL NOTE

AN ACT prohibiting the courts from charging fees.

FISCAL IMPACT:

The Judicial Branch states this bill will decrease state revenue by $2,842,742 in FY 2004 and by $5,685,484 in FY 2005 and each year thereafter. There will be no fiscal impact on state, county, and local expenditures or county and local revenue.

METHODOLOGY:

The Branch states this bill would prohibit the Courts from charging fees. The schedule below details the fees collected and the amounts collected for FY 2002. The Branch assumes the level of revenue will remain stable in the years after FY 2002. The Branch calculated the loss in revenue for FY 2004 to be ½ of the total amount collected as a result of the January 1, 2004 effective date.

Revenue Source	
Entry Fees	$3,399,795
Guardian Ad Litem Reimbursement	3,859
Witness Fees	10,209
Administrative Fees – Mandatory	417,568
Other Fees	885,646
Total General Fund Revenue	$4,717,077
Guardian Ad Litem	236,534
Administrative Fees – Discretionary	104,572
Probate Publications	65,634
Transcripts	220,883
Facility Escrow	234,468
Court Monitor Transcripts	46,820
Forms, Publications, Education Materials	2,104
Probate Mediation Fund	54,000
Law Library Fund	3,392
Total Restricted Revenue	$ 968,407
Total Decrease In Revenue	$5,685,484

Hearing Minutes

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HB 221-FN

BILL TITLE: prohibiting the courts from charging fees.

DATE: Jan. 28, 2003

LOB ROOM: 208 **Time Public Hearing Called to Order:** 11:25 a.m.

Time Adjourned: 12:05 p.m.

(please circle if present)

Committee Members: Reps. Mock, Rowe, Jacobson, Ford, Dudley, Soltani, Woods, Rice, Souza, Desmarais, Haytayan, Mooney, Morris, Sorg, J. Wheeler, Wall, J. Pratt, Craig, Lasky, Potter and Franklin.

Bill Sponsors: Rep. Marple, Rep. L. Christiansen, Rep. McElroy

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Phyllis Woods as Clerk

Rep. Richard Marple, Merrimack, District 37, sponsor- Supports. Codifies Article 14 of Constitution self-explanatory- research is on Virginia Case. An unconstitutional act is not a law. Transcripts are way too expensive.

Rep. Lasky asked for clarification of expectations

Q: Rep. Haytayan what does the case cited have to do with the bill? Asked Rep. Marple if he has any case law pertaining to Article 14

Rep. Pratt inquired as to what cost would be.

A: $5,600,000 (Five million six hundred thousand)

Rep. Souza asked if this bill only covers the parties to the action.

Rep. Lars Christensen, Dist. 66, sponsor- purpose of the bill is for us to uphold our oaths of office.

Howard Zibel, NH Supreme Court, Judicial Branch- Opposes. Read Part I Article 14- Provision dates back to the Magna Charta to prohibit "bribing" or paying for justice. It had nothing to do with filing fees. Courts have struck down an effort by some to "purchase" a quick court date. $5,600,000 is too low a cost for this bill.

Rep. Pratt- asked about efforts to provide transcripts to indigents in both civil and criminal cases. Appealing party must provide transcripts for themselves, court and other party.

Rep. Haytayan- asked if there has been an initiative to raise funds for transcripts.

Rep. Souza- asked if the courts have transcripts, why would there be a cost?

A: They are not prepared unless requested.

Rep. Desmarais asked about the cost of transcripts

Rep. Henry McElroy, Dist 61, sponsor- Wants judiciary to study this subject.

Respectfully Submitted,

Rep. Phyllis Woods for Rep. Terri C. Dudley, Clerk

Voting Sheets

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB 221-FN

BILL TITLE: **prohibiting the courts from charging fees.**

DATE: Jan. 29, 2003

LOB ROOM: 208

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, (ITL) Interim Study (Please circle one.)

Moved by Rep. Gregory M. Sorg

Seconded by Rep. Bette R. Lasky

Vote: 13-1 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 14-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Terri C. Dudley, Clerk

OFFICE OF THE HOUSE CLERK 2003 SESSION

JUDICIARY

Bill #: 221 Title: Prohibiting the Courts from charging Fees

PH Date: 1/29/03 Exec Session Date: / /

Motion: ITL Amendment #:

MEMBER	YEAS	NAYS
Mock, Henry P, Chairman	✓	
Rowe, Robert H, V Chairman		
Jacobson, Alf E		
Ford, Nancy M	✓	
Dudley, Terri C, Clerk		
Soltani, Tony F		✓
Woods, Phyllis L	✓	
Rice, Thomas E P	✓	
Souza, Kathleen F		
Desmarais, Vivian J	✓	
Haytayan, Harry M	✓	
Mooney, Maureen C		
Morris, Richard W		
Sorg, Gregory M	✓	
Wheeler, James E	✓	
Wall, Janet G	✓	
Pratt, John	✓	
Craig, James W	✓	
Lasky, Bette R	✓	
Potter, Frances D		
Franklin, Peter E	✓	
TOTAL VOTE:	13	1

Printed: 1/23/2003

Committee Report

COMMITTEE REPORT

COMMITTEE: **Judiciary**

BILL NUMBER: **HB 221-FN**

TITLE: prohibiting the courts from charging fees.

DATE: Jan. 29, 2003 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☒ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

This bill would amend, replace or repeal numerous sections of the statutes in order to abolish all fees charged by the courts of this state. It would, in the view of its sponsors, codify the prohibitions enumerated in Article 14 of Part 1 of the NH Constitution. In voting this bill inexpedient to legislate, the committee concluded that Article 14 was a response to common Eighteenth Century English practice where bribery of magistrates, officials, or staff was normal, often necessary means of inducing administrative or judicial action, and that the Article was not intended to proscribe the charging of reasonable, uniform filing fees designed to defray actual processing expenses and to discourage frivolous filings. It was noted, also, that the courts follow a liberal practice, upon motion in appropriate situations, of waiving such fees based on inability to pay or other just cause.

Vote 13-1.

Rep. Gregory M. Sorg
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

CONSENT CALENDAR

Judiciary

HB 221-FN, prohibiting the courts from charging fees. **INEXPEDIENT TO LEGISLATE**

Rep. Gregory M. Sorg for Judiciary: This bill would amend, replace or repeal numerous sections of the statutes in order to abolish all fees charged by the courts of this state. It would, in the view of its sponsors, codify the prohibitions enumerated in Article 14 of Part 1 of the NH Constitution. In voting this bill inexpedient to legislate, the committee concluded that Article 14 was a response to common Eighteenth Century English practice where bribery of magistrates, officials, or staff was normal, often necessary means of inducing administrative or judicial action, and that the Article was not intended to proscribe the charging of reasonable, uniform filing fees designed to defray actual processing expenses and to discourage frivolous filings. It was noted, also, that the courts follow a liberal practice, upon motion in appropriate situations, of waiving such fees based on inability to pay or other just cause. **Vote 13-1.**