Bill as Introduced

HB 211 – AS AMENDED BY THE HOUSE

25mar03... 0164h

2003 SESSION

03-0536
08/10

HOUSE BILL *211*

AN ACT relative to town clerk fee deposit requirements.

SPONSORS: Rep. Lockwood, Merr 35

COMMITTEE: Municipal and County Government

ANALYSIS

This bill requires that all statutory fees collected by a town clerk be deposited.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to town clerk fee deposit requirements.

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

1 Town Clerk Total Fund Deposit Requirement; Fees. RSA 41:25 is repealed and reenacted to read as follows:

41:25 Fees.

I. Town clerks shall be entitled to a minimum fee of $2 for recording a bill of conditional sale, a personal property mortgage or for a copy of any public records in his or her custody except copies of vital statistics, for recording writs of attachment, discharging a mortgage on the margin of a record or for recording an assignment thereof, provided, however, that each town, at the annual town meeting, may determine the rate and amount of compensation, in lieu of statutory fees, in combination with a portion of statutory fees or just statutory fees, to be allowed to the town clerk for his services.

II. Town clerks shall deposit all fees received with the town treasurer or in a municipal account controlled by the town treasurer at least monthly, or as directed by the selectmen, for the use of the town. In the event that any portion of the town clerk's compensation consists of statutory fees, the clerk shall submit an invoice for the amount of those fees to the treasurer, who shall pay out that amount to the clerk, notwithstanding RSA 32.

2 Duties of the Treasurer. Amend RSA 41:29, I to read as follows:

I. The town treasurer shall have custody of all moneys belonging to the town, and shall pay out the same only upon orders of the selectmen, or, in the case of a conservation fund established pursuant to RSA 36-A:5, upon the order of the conservation commission, or in the case of a heritage commission fund established pursuant to RSA 674:44-a upon the order of the heritage commission, or in the case of fees held pursuant to RSA 673:16, II, upon the order of the local land use board or its designated agent, or in the case of a recreation revolving fund established pursuant to RSA 35-B:2, upon the order of the recreation or park commission, ***or in the case of fees deposited by the town clerk pursuant to RSA 41:25, upon the invoice of the town clerk,*** or other board or body designated by the town to expend such a fund.

3 Effective Date. This act shall take effect 60 days after its passage.

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Committee Minutes

Date: April 22, 2003
Time: 2:00 p.m.
Room: 102 LOB

The Senate Committee on Executive Departments and Administration held a hearing on the following:

HB 211 relative to town clerk fee deposit requirements.

Members of Committee present: Senator Prescott
Senator Estabrook
Senator Kenney
Senator Peterson

The Chair, Senator Russell Prescott, opened the hearing.

I'd like to open the hearing on HB 211 relative to town clerk fee deposit requirements. Representative, thank you for coming before the committee this afternoon.

Representative Lockwood: For the record I am Representative Priscilla Lockwood, District 35. I sponsored this bill at the request of the Municipal Association so I'm sure that they can give you more information than I. Basically, years and years ago, all town clerks were paid with fees. Many towns have changed to salaries and some towns have both. This bill would require the Town Clerks to deposit those fees. At the present time, they are allowed to pocket the fees. The money is theirs but it doesn't go through any auditing system. This bill would require it then to go into the general fund and be taken back out again at their request.

Senator Russell E. Prescott, D. 23: Have you contacted all the town clerks in the state and see if they're in favor?

Representative Lockwood: We did have testimony in the House committee from the Town Clerks Association. There were some town clerks that were concerned, individual clerks. The association backed it. There were individual clerks that were unhappy at the thought of not being able to put

that money in their pockets. We did change it so that they could request those fees at any time rather than having to wait a month to have them make out a check or something like that. They could request it at their convenience.

Senator Russell E. Prescott, D. 23: Thank you for your testimony. Any questions of the committee? Robert Lambert.

Robert Lambert, Town Clerk of Peterborough NH, Second Vice President of the Town Clerks Association: I'm here representing the association and President Betty Ramspott who couldn't be here today so I have a letter to read. I do have copies. I'm new at this so I'm nervous.

It is with great regret that I am not able to appear at this hearing today. My deputy is on vacation this week making it impossible for me to leave my office. This is Betty Ramspott. She's the clerk from Sunapee New Hampshire.

The New Hampshire Municipal Association asked for support form the New Hampshire City and Town Clerk's Association Executive Board for this type of legislation, and at our November 19, 2002 Executive Board Meeting we voted unanimously to support it. Dual control of funds collected in a municipality is a practice that should be strictly adhered to and this bill will aid in creating that type of system. The practice of clerks depositing their own fees and reporting to the town what has been collected is a procedure that worked well when clerks had fewer responsibilities. In today's world with more money to collect and more regulations to follow depositing money through the Treasurer is a more logical way to do business. We feel this bill will provide protection and credibility for all city and town clerks.

We hope you will join the New Hampshire City and town Clerk's Association Executive Board in supporting HB 211.

Senator Russell E. Prescott, D. 23: Any questions of the committee?

Mr. Lambert: In my town I am on salary so all the fees go through the treasurer. We do support it.

Senator Russell E. Prescott, D. 23: Thank you for your testimony. Judy Silva.

Judy Silva, Municipal Association: Good afternoon Mr. Chairman and members of the committee. You can see that this is not a controversial bill. I see all the heavy hitters have left the room and there are just a few of us left. This is a bill that we have strongly supported as policy of the Municipal

Association adopted by our Municipal Administration and Finance Management Legislative Policy Committee which did have representation from the Town Clerks Association so they have been understanding of this and supporting it from the time of the policy committee looking at the issue and developing it.

The policy simply states that we support the legislation to require city and town clerks to deposit all funds collected with the city or town treasurer or in a municipal account controlled by the treasurer and then submit a request for a payment. As you probably know the statue allows clerks to be paid by fees, salary or a combination of fees and salary. All we're talking about here is a situation where clerks are paid by feels or a portion of fees.

Many places already where there are part of the clerks compensation is in fees, those fees are deposited in full and the clerk is reimbursed but there are still some locations where the selectmen have been unsuccessful in convincing the clerks to deposit the fees in full with some account in the town and then seeking reimbursement. The objects we have heard include things like "I like to be able to put that money in my pocket every night when I go home." While I certainly can understand that from a fiscal perspective, I don't think that's wise for the towns or the clerks. I'm sure we've all read the papers recently where there's been issues with what funds clerks have been keeping. We think this is protective of clerks from rightful or wrongful suspicion and protective of the municipality as well.

We do have the support of their association. We have added language to the bill in the house to make it clear that it's essentially just an in and out transaction with the treasurer so there is no ability with anybody in town to interfere with the clerk rightfully getting all that money back. They won't loose any money. It will simply go through the formal record keeping processes in the municipality and come back to them.

I do have written testimony to give to the committee and what I have put on the second page is simply a highlight of where the language differs from the current statute when you do a repeal and reenact sometimes it's difficult to tell what is new. Much of what is in the bill is currently in statute. I've just highlighted where the language is different from what the current statute is.

Senator Russell E. Prescott, D. 23: thank you very much for testifying. Anyone else here wishing to testify? Seeing none, I'll close the hearing on HB 211.

Respectfully submitted

Pamela Manocchi

Pamela Manocchi
May 8, 2003

Attachments

Speakers

SENATE Executive Departments & Administration

Date 4/23/03 Time 2:00 p.m. Public Hearing on

Bill # HB 211 relative to town clerk fee deposit requirements.

(Please print) **Please check box(es) at left that apply.**

SPEAKING?	FAVOR	OPPOSED	NAME	REPRESENTING
✓	☒	☐	Robert Lambert	Town Clerk Assoc.
✓	☑	☐	Rep. Priscilla Lockwood, Dist. 35	
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
✓	☒	☐	Judy Silva	NH Municipal Assoc.
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Testimony

NEW HAMPSHIRE CITY AND TOWN CLERKS' ASSOCIATION
(ORGANIZED OCTOBER 10, 1928)

April 22, 2003

To: Executive Departments & Administration Committee

From: Betty H. Ramspott, President – New Hampshire City & Town Clerk's Association

Subject: HB211

It is with great regret that I am not able to appear in person today. My deputy is on vacation this week making it impossible for me to leave my office.

The New Hampshire Municipal Association asked for support from the New Hampshire City & Town Clerk's Association Executive Board for this type of legislation, and at our November 19, 2002 Executive Board Meeting we voted unanimously to support it. Dual control of funds collected in a municipality is a practice that should be strictly adhered to, and this bill will aid in creating that type of system. The practice of clerks depositing their own fees and reporting to the town what has been collected is a procedure that worked well when clerks had fewer responsibilities. In today's world with more money to collect and more regulations to follow depositing money through the Treasurer is a more logical way to do business. We feel this bill will provide protection and credibility for all city and town clerks.

We hope you will join the New Hampshire City and Town Clerk's Association Executive Board in supporting HB211.

N. H. Municipal Association

PO Box 617, Concord, NH 03302 ▪ (603) 224-7447

TESTIMONY ON HB 211

Senate Executive Departments and Administration
April 23, 2003

Good afternoon, Mr. Chair and members of the Committee, my name is Judy Silva and I am Government Affairs Counsel at the New Hampshire Municipal Association. I appear here today in **STRONG SUPPORT** of **HB 211**. This bill was the #3 Action Recommendation of the NHMA Municipal Administration and Finance Management Legislative Policy Committee.

The policy states as follows:

> **NHMA SUPPORTS** legislation to require city and town clerks to deposit all funds collected with the city or town treasurer or in a municipal account controlled by the treasurer. A request for payment of fees should be submitted for reimbursement.

As you know, RSA 41:25 gives municipalities a choice in how they decide to pay for the services of their town clerks—by fees, "salary," or a combination. In many municipalities where clerks are paid in whole or in part by fees, clerks already deposit the fees in total. In some municipalities where clerks are paid in whole or in part by fees, however, the fees are not deposited and are simply retained by the clerk as compensation. While those clerks are clearly entitled to the amount of money collected in fees as part of their compensation, the municipality may have no record of the amount collected in fees or paid to the clerk. To require deposit in full of all fees collected would provide better municipal bookkeeping and accountability for those funds. A total fee deposit requirement would provide protection for both municipalities and for clerks against any claims, real or imagined, of mishandling of the funds. We have added language so that the payment of the fees is simply an in and out transaction with the treasurer, and there is no opportunity for anyone to interfere with payment of the fees to the clerk.

This policy was reviewed with the New Hampshire City and Town Clerks' Association and we are pleased to have their support. We ask you for your support as well. Thank you for your attention and please feel free to call upon us if you have any questions.

Where Proposed Language Differs From Current Statute

1 Town Clerk Total Fund Deposit Requirement; Fees. RSA 41:25 is repealed and reenacted to read as follows:

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Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: April 23, 2003

THE COMMITTEE ON Executive Departments and Administration

to which was referred House Bill 211

AN ACT relative to town clerk fee deposit requirements.

VOTE: 4-0

Having considered the same, report the same without amendment and recommend that the bill: **OUGHT TO PASS.**

Senator Joseph D. Kenney
For the Committee

HB211 Docket

Next|Prev|Results List|Main|Bill Status

Bill Title: relative to town clerk fee deposit requirements.

Date	Body	Description
1/9/2003	H	Introduced and ref to Mun & Cnty Govt; HJ8, p111
1/14/2003	H	Copy to Chairman on 1/14/2003
1/15/2003	H	Hearing Jan 22 10:00 RM301,LOB
3/18/2003	H	Maj Report OTP/AM for Mar 25 (Vote 17-0;CC)
3/18/2003	H	Prop Comm Am{0164}; HC26, p685
3/25/2003	H	Passed with Am; HJ 29-pt 1, p878 + pt 2, p966
4/10/2003	S	Introduced and Ref. to Executive Departments & Administration; SJ 12, Pg.316
4/16/2003	S	Hearing; April 23, 2003, Room 102, LOB, 2:00 p.m.; SC19
4/28/2003	S	Committee Report; Ought to Pass [05/08/03]; SC21
5/8/2003	S	Ought to Pass, MA, VV; OT3rdg; SJ 15, Pg.351
5/8/2003	S	Passed by 3rd Reading Resolution; SJ 15, Pg.369
5/15/2003	S	Enrolled Bill Amendment{1655}, Adopted; SJ 16, Pg.391
5/15/2003	H	Enrolled Am{1655}, Am Adopted; HJ 45, p1435
5/29/2003	H	Enrolled; HJ 45, p1447
5/29/2003	S	Enrolled;
6/6/2003	H	Signed by the Governor on 6/6/2003 Eff: 8/5/2003 Chap: 0100

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Docket Abbreviations