Bill as Introduced

2006 SESSION

06-2136
03/01

HOUSE BILL ***1237-FN-LOCAL***

AN ACT requiring matching expenditures when public money is paid for purposes of electioneering.

SPONSORS: Rep. O'Brien, Hills 4; Rep. Mead, Hills 4; Sen. Roberge, Dist 9

COMMITTEE: Election Law

ANALYSIS

This bill requires matching expenditures when public money is paid for purposes of electioneering.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 1237-FN-LOCAL – AS INTRODUCED

06-2136
03/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Six

AN ACT requiring matching expenditures when public money is paid for purposes of electioneering.

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

1 New Section; Public Funds Expended for Electioneering. Amend RSA 664 by inserting after section 5-c the following new section:

664:5-d Public Funds Expended for Electioneering.

I. No public entity shall make an expenditure or otherwise pay or appropriate public funds to any nonpublic entity where any part of the funds will be used for electioneering without publishing notice prior to the expenditure, payment, or appropriation. The notice shall disclose the amount and purpose of the expenditure, payment, or appropriation. The public entity shall publish the notice in a newspaper of general circulation in the relevant community and make the notice available for public inspection in the office of the clerk or other person responsible for recordkeeping for the entity.

II. Within 14 days of the publication of the notice required by paragraph I, any political committee, other than a political committee of a political party, may apply for, and the public entity shall pay, matching funds to be used exclusively for the purpose of electioneering for the opposing position. If more than one political committee applies for matching funds, each applicant shall receive a proportionate share.

III. For the purposes of this section, "electioneer" shall mean to act in any way specifically designed to influence the vote of a voter on any question or office.

2 Effective Date. This act shall take effect January 1, 2007.

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HB 1237-FN-LOCAL - FISCAL NOTE

AN ACT requiring matching expenditures when public money is paid for purposes of electioneering.

FISCAL IMPACT:

The New Hampshire Municipal Association and Association of Counties state this bill will increase county and local expenditures by an indeterminable amount in FY 2007 and each year thereafter. There will be no fiscal impact on state, county, and local revenue or state expenditures.

METHODOLOGY:

The New Hampshire Municipal Association states this bill would prohibit a public entity from expending, paying, or appropriating public funds to a non-public entity if any part of the funds will be used for electioneering, unless the public entity first publishes notice in a newspaper of general circulation disclosing the amount and purpose of the expenditure, payment, or appropriation. Upon request by a political committee within 14 days after notice is published, the public entity must pay matching funds to the political committee for the purpose of electioneering for the opposing position. The Association states to their knowledge, no municipality pays public funds to any non-public entity for the purpose of influencing voters with respect to any office. However, all municipalities pay dues to one or more organization that may, on occasion, engage in electioneering with respect to questions. These include the New Hampshire Municipal Association, the New Hampshire City and Town Clerks Association, the New Hampshire Association of Conservation Commissions, the New Hampshire Association of Chiefs of Police, the New Hampshire Fire Chiefs Association, the New Hampshire Association of Assessing Officials, the New Hampshire Tax Collectors Association, and perhaps others. One or more of these organizations might seek to influence voters on questions appearing on a statewide ballot, typically questions involving proposed constitutional amendments. If an organization to which a municipality has paid dues or other amounts engages in electioneering, this bill would require the municipality to determine how much of its payment has been, or will be, used for the purpose of electioneering. The municipality would then have to publish notice of that amount, and upon request, pay an identical amount to a political committee to support the opposing position. In the event that an organization receiving funds from a municipality does engage in electioneering, the requirement that the

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municipality publish notice in a newspaper and pay matching funds would result in a municipal cost. The exact fiscal impact cannot be determined at this time.

The New Hampshire Association of Counties states this bill would restrict how county monies are spent for electioneering. The Association is unable to determine the fiscal impact at this time, as it is awaiting the completion of its survey of county governments to determine if these restrictions will have any impact on current county expenditures.

The Department of State states this bill will have no fiscal impact on their Department.

Committee Minutes

ELECTION LAW

HB 1237-FN-LOCAL

NOT RECOMMENDED FOR FUTURE LEGISLATION

October 17, 2006

A sponsor of this bill opposes any use of public funds for private or one-sided advocacy on ballot issues. In committee he proposed that this bill, which would require that matching funds be given to each side when public funds are used to advocate on ballot issues, not be recommended for future legislation because it would accommodate wrong doing and not prevent wrong doing.

13-0

Rep. William L. O'Brien

Matching Funds

INTERIM STUDY
COMMITTEE REPORT

COMMITTEE: Election Law

BILL NUMBER: HB - 1237 - FN

TITLE: Requiring matching expenditures when public money is paid for purposes of electioneering

DATE: 10/17/06

☐ **RECOMMENDED FOR FUTURE LEGISLATION**

LSR No._____ **(If legislation is already filed, please list LSR no.)**

☑ **NOT RECOMMENDED FOR FUTURE LEGISLATION**

STATEMENT OF INTENT: (May be handwritten)

A sponsor of this bill opposes any use of public funds for private or one-sided advocacy on ballot issues. In committee he proposed that this bill, which would require that matching funds be given to each side when public funds are used to advocate on ballot issues, not be recommended for future legislation because it would accommodate wrongdoing and not prevent wrongdoing

COMMITTEE VOTE: 13-0 (Attach Committee Voting Sheet)

Rep. _____
For the Committee

Rev. 7/98

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 1237 Date JAN. 26, 2006

Committee Election Law

**** Please Print All Information ****

Name	Address	Phone	Representing	(check one) Pro	Con
[illegible]		735-5527	Self	X	
Sen. Roberge			District 9	✓	
Rep. Mead	Hills. dist 4			✓	
Marjory Suzie	Concord	224-9867	NH Assoc of Counties Coalition Commissioners		X ✓
J. Allen Bennet	14 Grove St.	228-1494	Concord City Council		✓
Mark Sousa	City Hall Nashua	589-3260	City of Nashua		X
Seth Cohn	Concord		Self	✓	
Calvin Pratt	Goffstown	497-4337	Self	X	
Elizabeth Ives	4 Field Rd Derry	434-6539	NHLTA		X
Marion Willis	6 S. Main St. Derry	432-7413	self		X
Margaret Ives	4 Field Rd. Derry	434-6539	self		X

Hearing Minutes

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON HB 1237-FN-L

BILL TITLE: relativrequiring matching expenditures when public money is paid for purposes of electioneering.

DATE: January 26, 2006

LOB ROOM: 308 **Time Public Hearing Called to Order:** 9:35 AM

Time Adjourned: 10:48 AM

(please circle if present)

Committee Members: Reps. Whalley, Orisko, Reeves, Kennedy, J. Allen, Biundo, Boehm, Carew, Forsing, Hirschmann, Langlais, O'Brien, Splaine, Clemons, Weed, C. Chase, Harvey, and Coates.

Bill Sponsors: Rep. O'Brien, Hills 4; Rep. Mead, Hills 4; Sen. Roberge, Dist 9

TESTIMONY

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

Rep. O'Brien, prime sponsor in favor of this bill. Last session the issue arose whether we were going to allow public funds for electioneering. Being a realist, Rep. O'Brien feels that if public money is going to be used, then it should be disclosed. It would give those who oppose the opportunity to be heard. If an agency of government is going to support a ballot question, then it should be known to everyone. It is a matter of fairness for those who do not have access to public funds to support or oppose legislation. Let funds be available to both sides

Question regarding the naval shipyard and efforts to keep it from closing.
Response was that would not be covered under this bill because this bill deals only with electioneering. If a group goes to the effort of setting up a PAC, then they should receive equal public funds..

Judy Silva, representing the NH Municipal Assoc. Opposes this bill. No objection to the public knowing what the money is spent for. She does object to the electioneering section. She said they never electioneer on local level but sometimes do for constitutional questions. Their association is member driven. They have only electioneered on two constitutional questions over the many years they have been an association. It is not clear to the attorney of the association whether they are a public entity, quasi public entity or not a public entity at all. Problems range from who would decide what an opposing view is and if money was given for an opposing view, who would track where the money went and how it was spent. This bill presents an unreasonable and unworkable situation for the NH Municipal Association.

Dean Michener, representing NH School Boards' Associations. Opposes this bill. Non-profit organization with 21 board members. All board members are school board members. He can remember only one time that there may have been electioneering and that was in reference to the NO CHILD LEFT BEHIND ACT. They do not participate in local elections.

Russell Marcoux, representing the Town of Derry. He is town administrator in Derry. He opposes this bill. The biggest problem with this bill is electioneering. He said that he does not participate in electioneering. Town administrators have an ethical code of conduct that they carefully follow. They are allowed to speak in regards to particular legislation. He feels that the lobbyists speak much more often than government agencies do.

Atty. Bud Fitch, Deputy Attorney General. Neither in opposition nor support. The attorney general's office does think that there is a problem and if we could address this issue we would be assisting their office with the various complaints they receive. RSA 15:1-A should be considered. 3 constitutional questions.

Mark A. Sousa, representing the City of Manchester. Opposes bill. Discussed cities lobbying.

Respectfully submitted,

Rep. Janet F. Allen, Clerk

Testimony

file Copy

Town of Plaistow

Town Hall
145 Main Street
Plaistow, NH 03865

Town Manager

John Scruton
Phone: (603) 382-5200 Ext. 13
Fax: (603) 382-7183

To: New Hampshire House Election Law Committee
Cc: Sen. Charles Morse, Rep. Norm Major, Rep. Ken Weyler, Rep. Kevin Camm, Rep. John Flanders, Rep. Ed Putnam III, Rep. Roger Wells.
From: John F. Scruton, Town Manager
Date: January 24, 2006
Re: HB 1219, 1236, 1237, Acts restricting the ability of local officials to represent their constituency directly or through association with others.

On January 23, 2006 the Board of Selectmen in Plaistow voted unanimously to oppose HB 1219, 1236, and 1237. These bills each restrict the ability of a community's elected representatives from promoting issues which they deem are important to them. As such they are a direct attack on constitutional guarantees of the right to seek redress.

Why should the state restrict the right of the Selectmen to explain their support for a particular project that will be voted upon at the deliberative session by ballot? Why should the state restrict the right of the Board of Selectmen to write letters (an expense) to elected representatives stating their views? Why should the state restrict the right of the Budget Committee, Planning Board, or Selectmen to state their views in the Town Report? Why should the state restrict the right of the voters of a community from approving funds to band together and to promote issues by using lobbyists? Why should only private industry have the right to form associations to lobby for particular issues?

The Selectmen also do not believe they should be made to use Town funds to support those opposed to a project. Recently there was a special town meeting petitioned by 300 voters to change the zoning to prevent a large trash plant locating next to an elementary school. The trash plant had a sizable budget to try to pass the article that included sending out brochures to every resident in town. Why should the Town supplement that private industry budget fighting a zoning change by being forced to provide the trash plant with additional municipal funds? One of these bills would overlook the fact that over 95% of the voters supported the position in opposition to the plant and would have required the Town to pay also to promote the trash company's position at voter's expense.

In the legislature the telecoms, cable, insurance, banking, and other industries spend large sums lobbying. Why should the interest of the local taxpayers be left unprotected? Is not the right to association a constitutionally guaranteed protection?

The only issue in these three bills which the Board of Selectmen supports is the restriction on using tax funds to promote a particular candidate, but to its knowledge that has not been done locally or by NHMA.

The Plaistow Board of Selectmen urges the defeat of this proposal.

Voting Sheets

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on HB 1237-FN-L

BILL TITLE: **requiring matching expenditures when public money is paid for purposes of electioneering.**

DATE: February 22, 2006

LOB ROOM: 308

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. Clemons

Seconded by Rep. Chase

Vote: 16-0 (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: 16-0

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Janet F. Allen, Clerk

ELECTION LAW

Bill #: HB 1237-FN-L Title: Relative to requiring matching expenditures when public money is paid . . .

PH Date: 1 / 26 / 06 Exec Session Date: 2 / 22 / 06

Motion: interim study Amendment #:

MEMBER	YEAS	NAYS
Whalley, Michael D, Chairman	✓	
Drisko, Richard B, V Chairman	✓	
Reeves, Sandra J	✓	
Kennedy, Richard E	✓	
Allen, Janet F, Clerk	✓	
Biundo, Michael G	✓	
Boehm, Ralph G	✓	
Carew, James M	✓	
Forsing, Robert W	✓	
Hirschmann, Keith D absent		
Langlais, Thomas J	✓	
O'Brien, William L	✓	
Splaine, James R	✓	
Clemons, Jane A	✓	
Weed, Charles F	✓	
Chase, Claudia A	✓	
Harvey, Suzanne absent		
Coates, Christopher C	✓	
TOTAL VOTE:	16	0

Printed: 12/19/2005

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on HB 1237-FN-LOCAL

BILL TITLE: **requiring matching expenditures when public money is paid for purposes of electioneering.**

DATE: October 17, 2006

LOB ROOM: 308

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.) NOT RECOMMENDED FOR FUTURE LEGISLATION

Moved by Rep. O'Brien

Seconded by Rep. Reeves

Vote: 13-0 (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:

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Janet F. Allen, Clerk

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on HB 1237-FN-LOCAL

BILL TITLE: **requiring matching expenditures when public money is paid for purposes of electioneering.**

DATE: October 17, 2006

LOB ROOM: 308

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.) Not Rec. future legislation

Moved by Rep. O'Brien

Seconded by Rep. Reeves

Vote: 13-0 (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:

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Janet F. Allen, Clerk

OFFICE OF THE HOUSE CLERK 2006 SESSION

ELECTION LAW

Bill #: HB 1237-FN **Title:** Requires matching expenditures when public money

PH Date: 1/26/06 Exec Session Date: 10/17/06

Motion: Not Rec. for future legislation Amendment #:

MEMBER	YEAS	NAYS
Whalley, Michael D, Chairman	✓	
Drisko, Richard B, V Chairman	✓	
Reeves, Sandra J	✓	
Kennedy, Richard E absent		
Allen, Janet F, Clerk	✓	
Biundo, Michael G absent		
Boehm, Ralph G	✓	
Carew, James M	✓	
Forsing, Robert W	✓	
Hirschmann, Keith D	✓	
Langlais, Thomas J	✓	
O'Brien, William L	✓	
Splaine, James R	✓	
Weed, Charles F	✓	
Chase, Claudia A absent		
Harvey, Suzanne	✓	
Coates, Christopher C absent		
Merrick, Scott A absent		
TOTAL VOTE:	13	0

Printed: 9/6/2006

Committee Report

COMMITTEE REPORT

COMMITTEE: **Election Law**

BILL NUMBER: **HB 1237**

TITLE: requiring matching expenditures when public money is paid for purposes of electioneering.

DATE: February 22, 2006 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)

The committee has agreed to study a number of bills regarding public money, campaigns, electioneering and will address these issues in the fall in order to make an appropriate recommendation.

Vote 16-0.

Rep. Jane A. Clemons
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Election Law

HB 1237, requiring matching expenditures when public money is paid for purposes of electioneering. **REFER TO COMMITTEE FOR INTERIM STUDY**

Rep. Jane A. Clemons for Election Law: The committee has agreed to study a number of bills regarding public money, campaigns, electioneering and will address these issues in the fall in order to make an appropriate recommendation. **Vote 16-0.**

COMMITTEE REPORT

COMMITTEE: Election Law

BILL NUMBER: HB 237

TITLE: Requiring matching expenditure when public money is paid for purpose of electioneering

DATE: 2/21/06 CONSENT CALENDAR: YES ☑ NO ☐

☐ OUGHT TO PASS

☐ OUGHT TO PASS W/ AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☑ INTERIM STUDY (Available only 2nd year of biennium)

Amendment No.

STATEMENT OF INTENT:

The committee has agreed to study a number of bills regarding public money, campaign electioneering and will address these issues ~~from~~ IN THE FALL IN ~~legislation~~. ORDER TO MAKE AN APPROPRIATE RECOMMENDATION.

MDW

COMMITTEE VOTE: _____

- Copy to Committee Bill File
- Use Another Report for Minority Report

RESPECTFULLY SUBMITTED,

Rep. Jane Clemons
For the Committee

Rev. 07/30/99