Bill as Introduced

HB 212 – AS INTRODUCED

2011 SESSION

11-0112
05/04

HOUSE BILL ***212***

AN ACT relative to the definition of conflict of interest for executive branch officials and employees.

SPONSORS: Rep. O'Brien, Hills 4; Rep. Comerford, Rock 9

COMMITTEE: Election Law

ANALYSIS

This bill addresses circumstances in which an executive branch official or public employee's involvement with or participation in a state political campaign would constitute a conflict of interest.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

11-0112
05/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to the definition of conflict of interest for executive branch officials and employees.

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

1 Findings and Purpose. The legislature finds and declares that:

I. The citizens of New Hampshire deserve the full attention and loyalty of state public officials and employees when engaged in their public employment duties; and

II. Whether or not an actual conflict of interest can be shown if a state public official or employee is paid by, or involved with, the election or re-election campaign or activities of a candidate for political office, if that office directly or indirectly supervises or would supervise the public official or employee, a conflict can be assumed, and such activities diminish the public's faith in the commitment and loyalty of their public servants; and

III. It is therefore the intent of the legislature to enact broad language prohibiting any such actual or potential conflicts of interest.

2 Executive Branch Code of Ethics; Definition of Conflict of Interest. Amend RSA 21-G:21, II to read as follows:

II. "Conflict of interest" means a situation, circumstance, or financial interest which has the potential to cause a private interest to interfere with the proper exercise of a public duty. ***Without in any manner limiting the scope of the foregoing sentence, a "conflict of interest" shall be deemed to exist in any instance in which:***

(a) An executive branch official, while holding such position, contributes to, participates in, advises, consults for, or is directly or indirectly compensated by:

(1) A candidate for state political office;

(2) The election or re-election campaign, committee, or organization of a candidate for state political office;

(3) A committee or organization that is intended to influence or intentionally influences the election of a candidate for state political office; or

(4) A committee or organization formed to explore the possibility of filing for state political office; and

(b) Such candidate or state political office directly or indirectly supervises that executive branch official, without regard to when any such activities by the executive branch official occur.

(c) No conflict of interest shall be deemed to exist by voting for a candidate in a primary or general election.

3 Executive Branch Code of Ethics; Conflict of Interest. Amend RSA 21-G:22 to read as follows:

21-G:22 Conflict of Interest. Executive branch officials shall avoid ***and shall not be involved in any*** conflicts of interest. Executive branch officials shall not participate in any matter in which they, or their spouse or dependents, have a private interest which may directly or indirectly affect or influence the performance of their duties.

4 Effective Date. This act shall take effect July 1, 2011.

Amendments

Rep. O'Brien, Hills. 4
January 31, 2011
2011-0117h
05/04

"Not Adopted"

Amendment to HB 212

Amend the introductory paragraph of RSA 21-G:21, II(a) as inserted by section 2 of the bill by replacing it with the following:

(a) An executive branch official, while holding such position, contributes to, participates in, advises, consults for, or is directly compensated by:

Amend RSA 21-G:21, II(b) and (c) as inserted by section 2 of the bill by replacing them with the following:

(b) Such candidate or state political office directly supervises that executive branch official, without regard to when any such activities by the executive branch official occur.

(c) No conflict of interest shall be deemed to exist by voting for a candidate in a primary or general election, being a member of a political party, or holding a leadership position in a political party or any subcommittee of a political party.

2011-0117h

AMENDED ANALYSIS

This bill addresses circumstances in which an executive branch official's involvement or participation in a state political campaign constitutes a conflict of interest.

Committee Minutes

STATE OF NEW HAMPSHIRE

HOUSE OF REPRESENTATIVES

Office of the Speaker

MEMORANDUM

TO: Honorable Frank V. Sapareto

FROM: William L. O'Brien
Speaker of the House

DATE: May 24, 2012

RE: HB 212 and HB 655

The Chair has determined that the subject matter of HB 212 (relative to the definition of conflict of interest for executive branch officials and employees) is germane to HB 655 (establishing a committee to study issues regarding the New Hampshire Local Government).

WLO/sg

State House • Concord, New Hampshire 03301-4988 • Telephone: (603) 271-3661 • FAX: (603) 271-3309
TDD Access: Relay NH 1-800-735-2964

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 212 Date 2/1/11

Committee Election Law

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

Name	Address	Phone	Representing	(check one) Pro	Con

Hearing Minutes

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON HB 212

BILL TITLE: relative to the definition of conflict of interest for executive branch officials and employees.

DATE: 2/1/11

LOB ROOM: 308 **Time Public Hearing Called to Order:** 1:10 PM

Time Adjourned: 1:40 PM

(please circle if present)

Committee Members: Reps. Bates, Scala, Drisko, Jasper, Hoelzel, Doherty, Eaton, Birdsell, Byrnes, DeJong, DeLemus, Erickson, Reilly, Thomas, Cote, Pierce, Brunelle and Gimas.

Bill Sponsors: Rep. O'Brien, Hills 4; Rep. Comerford, Rock 9

TESTIMONY

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

Rep. William O'Brien, Hills 4 – Prime sponsor filed when he found out that a person (employee) in the governor's office was also being paid by a political campaign. He reviewed the history of legislation previously voted (2005/2006). An amendment was presented (January 31, 2011#2011-0117h). The amendment adds verbage after (c) on lines 29 & 30.

Diana Lacey – President State Employees Association – Wants it ITL – has had a chilling effect on employees. Scope is intentionally vague and broad. The bill as written includes all employees even if they are volunteering in a political campaign. Constitutionally wrong – violates HATCH Act. Section 1, paragraph 2 – fundamentally against what we assume in New Hampshire. HATCH Act "limits our ability to run for office".

Committee Researcher Pam – Submitted information showing definitions

Paul Twomey – HATCH Act states you cannot interfere _____ political contributions, etc. He listed the can and can nots of the Hatch Act. He feels the bill is unclear – First part talks of employees then in rest of bill public official and executive branch official needs to be redefined. Section 2a – needs wording change. Part III – changed by amendment is good. Should define what is meant by – go slowly with this bill and review the Hatch Act

Melissa Bernardan – America Votes – The original bill is far reaching

Respectfully submitted,

Kathleen M. Hoelzel

Kathleen Hoelzel, Clerk

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON HB 212

BILL TITLE: relative to the definition of conflict of interest for executive branch officials and employees.

DATE: 2/1/11

LOB ROOM: 308 **Time Public Hearing Called to Order:** 1:10 pm

Time Adjourned: 1:40 pm

(please circle if present)

Committee Members: Reps. Bates, Scala, Drisko, Jasper, Hoelzel, Doherty, Eaton, Birdsell, Byrnes, DeJong, DeLemus, Erickson, Reilly, Thomas, Cote, Pierce, Brunelle and Gmas.

Bill Sponsors: Rep. O'Brien, Hills 4; Rep. Comerford, Rock 9

TESTIMONY

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

- Rep. O'Brien (Hills. 4) William - prime sponsor
filed when he found out that a person (employee) in the governor's office was also being paid by a political campaign. He reviewed the history of legislation previously voted (2005/2006) on Jan 31, 2011
An amendment ~~is forthcoming~~ was presented # 2011-0117h
The amendment adds verbage after (c) on lines 29 + 30

Diana Lacey - President State Employees Association
Wants it ITL has had a chilling effect on employees.
Scope is intentionally vague. The bill as written
includes all employees even if they are volunteering
in a political campaign. Could be Federally working
violates HATCH ACT. Broad.

Section Paragraph 2 - fundamentally against what
we assume in N.H. HATCH act limits ability
to run for office

Proxy

Committee Researcher - Pam. submitted information
showing definitions

Paul Twomey - Hatch Act - states you can't interfer
re political contributions etc. He listed the can
and cannots of the Hatch Act
He feels the bill is unclear - 1st part talks of employees
then in rest of bill Public officials + executive branch
official needs to be defined
Section 2a - needs wording changed
Part III - changed by amendment is good.
should define what is meant by -
Go slowly with this bill and review The Hatch Act

Melissa Bernardan - America Votes
The original bill is far reaching

Sub-Committee Actions

HOUSE COMMITTEE ON ELECTION LAW

SUBCOMMITTEE WORK SESSION ON HB 212

BILL TITLE: relative to the definition of conflict of interest for executive branch officials and employees.

DATE: October 6, 2011

Subcommittee Members: Reps. Doherty, Erickson, Byrnes, and Gimas

Comments and Recommendations:

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. Gimes

Seconded by Rep. Doherty

Vote: 2-0

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

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. Shaun Doherty
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON ELECTION LAW

SUBCOMMITTEE WORK SESSION ON HB 212

BILL TITLE: relative to the definition of conflict of interest for executive branch officials and employees.

DATE: October 6, 2011

Subcommittee Members: Reps. Doherty, Erickson, Byrnes, and Gimas

Comments and Recommendations:

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. Gimas

Seconded by Rep. Doherty

Vote: 2-0 Yes

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

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. Shaun Doherty
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON ELECTION LAW

SUBCOMMITTEE WORK SESSION ON HB 212

BILL TITLE: relative to the definition of conflict of interest for executive branch officials and employees.

DATE: October 4, 2012

Subcommittee Members: Reps. Scala, Drisko, DeLemus, Gimus, Birdsell, and Thomas

Comments and Recommendations:

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep. Drisko

Seconded by Rep. Thomas

Vote: 4-0

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,
Rep. Kathleen M. Hoelzel
Rep. Kathleen Hoelzel
Subcommittee Chairman/~~Clerk~~

HOUSE COMMITTEE ON ELECTION LAW

SUBCOMMITTEE WORK SESSION ON HB 212

BILL TITLE: relative to the definition of conflict of interest for executive branch officials and employees.

DATE: October 4, 2012

Subcommittee Members: Reps. Scala, Drisko, ~~DeLemus~~, and ~~Gimus~~ Birdsell and Thomas

Comments and Recommendations:

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: Recommended or (Not Recommended for Future Legislation) (Please circle one.) OTL

Moved by Rep. Drisko

Seconded by Rep. Thomas

Vote: Unanimous

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep.
Subcommittee Chairman/Clerk
Rep Kathleen M. Hurley

Testimony

TITLE I
THE STATE AND ITS GOVERNMENT

CHAPTER 21-G
ORGANIZATION OF EXECUTIVE BRANCH

Code of Ethics

Section 21-G:21

21-G:21 Definitions. – In this subdivision:

I. "Agency" means any executive branch agency, department, division, board, commission, or entity of the executive branch.

II. "Conflict of interest" means a situation, circumstance, or financial interest which has the potential to cause a private interest to interfere with the proper exercise of a public duty.

II-a. "Executive branch official" means every elected official as defined by RSA 15-B:2, III, who holds an executive branch office, every public official as defined by RSA 15-B:2, X, every constitutional official as defined by RSA 15-B:2, II, and every public employee as defined by RSA 15-B:2, IX.

III. [Repealed.]

IV. [Repealed.]

V. [Repealed.]

Source. 2004, 214:1, eff. Jan. 1, 2005. 2006, 21:1, 10, III-V, eff. June 2, 2006.

HB 212 amends RSA 21-G:21

RSA 21-G:21-35 (Executive Branch Code of Ethics)

Under RSA 21-G:21, II-a "executive branch official' is defined as:

II-a. "**Executive branch official**" means every elected official as defined by RSA 15-B:2, III, who holds an executive branch office, every public official as defined by RSA 15-B:2, X, every constitutional official as defined by RSA 15-B:2, II, and every public employee as defined by RSA 15-B:2, IX.

RSA 15-B, Gifts, Honorariums and Expense Reimbursements

Under RSA 15-B:2, the identified terms are defined as follows:

III. "**Elected official**" means the governor, members of the executive council, members of the general court, county commissioners, county sheriffs, county treasurers, county attorneys, registers of deeds, and registers of probate.

X. "**Public official**" means a commissioned, unclassified, or nonclassified executive branch employee, but shall not include any commissioned, unclassified, or nonclassified employee elected by the legislature.

II. "**Constitutional official**" means the secretary of state, the state treasurer, their deputies, assistants, and all employees of their departments.

IX. "**Public employee**" means any person, including but not limited to a classified or non-classified employee or volunteer, who conducts state business on behalf of the governor, any executive branch official, agency, or the general court.

Voting Sheets

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on HB 212

BILL TITLE: **relative to the definition of conflict of interest for executive branch officials and employees.**

DATE: October 27, 2011

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. Doherty

Seconded by Rep. Baldasaro

Vote: 15-4 (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: NO

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Kathleen Hoelzel, Clerk

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on HB 212

BILL TITLE: **relative to the definition of conflict of interest for executive branch officials and employees.**

DATE: October 27, 2011

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. Shawn Doherty

Seconded by Rep. Al Baldasaro

Vote: 15-4 (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. Kathleen Hoelzel, Clerk

OFFICE OF THE HOUSE CLERK 2011 SESSION

ELECTION LAW

Bill #: hb 218 Title: _____

PH Date: ___/___/___ Exec Session Date: 10/27/2011

Motion: Interim Study Amendment #: _____

MEMBER	YEAS	NAYS
Bates, David, Chairman		
Scala, Dino A, V Chairman	✓	
~~Driske, Richard~~ B Rep Boehm	✓	
Jasper, Shawn N	✓	
Hoelzel, Kathleen M, Clerk	✓	
Doherty, Shaun S	✓	
~~Eaton, Stephanie~~ Rep. Al Baldasaro	✓	
Birdsell, Regina M	✓	
~~Byrnes, John~~ J Rep. Mirski	✓	
~~DeJong, Cameron W~~ Jim Comerford	✓	
DeLemus, Susan C	✓	
Erickson, Duane H	✓	
~~Reilly, Harold~~ T Rep Dan McGuire	✓	
Thomas, Joseph D	✓	
Cote, David E		✓
Perry, Robert J		✓
Pierce, David M		✓
Leishman, Peter R		✓
Gimas, John G	✓	
TOTAL VOTE: Printed: 10/13/2011	15	4

minority report

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on HB 212

BILL TITLE: **relative to the definition of conflict of interest for executive branch officials and employees.**

DATE: 311/12

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. Pierce

Seconded by Rep. Brunelle

Vote: (Please attach record of roll call vote.) 7-11 Failed

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

Moved by Rep. DeJong

Seconded by Rep. Thomas

Vote: 16-2 (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. Kathleen Hoelzel, Clerk

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on HB 212

BILL TITLE: **relative to the definition of conflict of interest for executive branch officials and employees.**

DATE: 2/9/11

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. Pierce

Seconded by Rep. Brunelle

Vote: (Please attach record of roll call vote.) 7-11 Failed

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

Moved by Rep. DeJong

Seconded by Rep. Thomas

Vote: (Please attach record of roll call vote.) 16-2

CONSENT CALENDAR VOTE:

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,
Kathleen M. Hoelzel
Rep. Kathleen Hoelzel, Clerk

OFFICE OF THE HOUSE CLERK 2011 SESSION

ELECTION LAW

Bill #: HB 212 Title: _____

PH Date: ___/___/___ Exec Session Date: 03/09/2011

Motion: OTL Amendment #: _____

MEMBER	YEAS	NAYS
Bates, David, Chairman		✓
Scala, Dino A, V Chairman		✓
Drisko, Richard B	✓	
Jasper, Shawn N		✓
Hoelzel, Kathleen M	✓	
Doherty, Shaun S		✓
Eaton, Stephanie	✓	
Birdsell, Regina M		✓
Byrnes, John J		✓
DeJong, Cameron W		✓
DeLemus, Susan C		✓
Erickson, Duane H		✓
Reilly, Harold T		✓
Thomas, Joseph D		✓
Cote, David E	✓	
Pierce, David M	✓	
Brunelle, Michael D	✓	
Gimas, John G	✓	
TOTAL VOTE:	7	11

Printed: 1/4/2011

OFFICE OF THE HOUSE CLERK

2011 SESSION

ELECTION LAW

Bill #: _____ Title: _____

PH Date: ____/____/____ Exec Session Date: 03/09/2011

Motion: Retain Amendment #: _____

MEMBER	YEAS	NAYS
Bates, David, Chairman	✓	
Scala, Dino A, V Chairman	✓	
Drisko, Richard B	✓	
Jasper, Shawn N	✓	
Hoelzel, Kathleen M	✓	
Doherty, Shaun S	✓	
Eaton, Stephanie	✓	
Birdsell, Regina M	✓	
Byrnes, John J	✓	
DeJong, Cameron W	✓	
DeLemus, Susan C	✓	
Erickson, Duane H Green	✓	
Reilly, Harold T	✓	
Thomas, Joseph D	✓	
Cote, David E		✓
Pierce, David M	✓	
Brunelle, Michael D		✓
Gimas, John G Koans	✓	
TOTAL VOTE:	16	2

Printed: 1/4/2011

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on HB 212

BILL TITLE: **relative to the definition of conflict of interest for executive branch officials and employees.**

DATE: October 16, 2012

LOB ROOM: 308

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep. Thomas

Seconded by Rep. Gimas

Vote: 10-0 (Please attach record of roll call vote.)

Motions: Recommended or Not Recommended for Future Legislation (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. Kathleen Hoelzel, Clerk

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on HB 212

BILL TITLE: **relative to the definition of conflict of interest for executive branch officials and employees.**

DATE: October 16, 2012

LOB ROOM: 308

Amendments:

Sponsor: Rep. _____ OLS Document #:

Sponsor: Rep. _____ OLS Document #:

Sponsor: Rep. _____ OLS Document #:

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep. ~~G~~ Thomas

Seconded by Rep. Gines

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

10 – 0

Motions: Recommended or Not Recommended for Future Legislation (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. Kathleen Hoelzel, Clerk

OFFICE OF THE HOUSE CLERK 2012 SESSION

ELECTION LAW

Bill #: 212 Title: definition of conflict of interest for executive Branch officials and employees

PH Date: ___/___/___ Exec Session Date: 10 / 16 / 2012

Motion: NOT recommend Amendment #: ___

MEMBER	YEAS	NAYS
Bates, David, Chairman ✓	✓	
Scala, Dino A, V Chairman		
Drisko, Richard B ✓	✓	
Hoelzel, Kathleen M ✓	✓	
Doherty, Shaun S		
Eaton, Stephanie		
Baldasaro, Alfred P ✓	✓	
Smith, William B		
~~Birdsell, Regina M~~ Barry ✓	✓	
Byrnes, John J		
DeJong, Cameron W		
DeLemus, Susan C, Clerk		
Erickson, Duane H		
Reilly, Harold T ✓	✓	
Thomas, Joseph D ✓	✓	
Cote, David E ✓	✓	
~~Perry, Robert J~~ Horrigan ✓	✓	
Pierce, David M		
Leishman, Peter R		
Gimas, John G ✓	✓	

TOTAL VOTE: 10 0

Printed: 2/17/2012

Committee Report

REGULAR CALENDAR

November 2, 2011

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on ELECTION LAW to which was referred HB212,

AN ACT relative to the definition of conflict of interest for executive branch officials and employees. Having considered the same, report the same with the recommendation that the bill be REFERRED FOR INTERIM STUDY.

Rep. Shaun S Doherty

FOR THE MAJORITY OF THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

MAJORITY
COMMITTEE REPORT

Committee:	**ELECTION LAW**
Bill Number:	**HB212**
Title:	**relative to the definition of conflict of interest for executive branch officials and employees.**
Date:	**November 2, 2011**
Consent Calendar:	**NO**
Recommendation:	**REFER TO COMMITTEE FOR INTERIM STUDY**

STATEMENT OF INTENT

The committee feels it is best to take a further look at the issue of conflicts of interest among employees of the executive branch. During subcommittee meetings, we saw merit in studying a potential conflict arising from an employee of the executive branch accepting compensation from a campaign committee that directly supports their superior.

Vote 15-4

Rep. Shaun S Doherty
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

ELECTION LAW

HB212, relative to the definition of conflict of interest for executive branch officials and employees.
REFER TO COMMITTEE FOR INTERIM STUDY.
Rep. Shaun S Doherty for the **Majority** of ELECTION LAW. The committee feels it is best to take a further look at the issue of conflicts of interest among employees of the executive branch. During subcommittee meetings, we saw merit in studying a potential conflict arising from an employee of the executive branch accepting compensation from a campaign committee that directly supports their superior. **Vote 15-4.**

Original: House Clerk
Cc: Committee Bill File

HB 212

Interim Study

The committee feels it is best to take a further look at the issue of conflicts of interest among employees of the executive branch. During subcommittee meetings, we saw merit in studying a potential conflict arising from an employee of the executive branch accepting compensation from a campaign committee that directly supports their superior.

Rep. Shaun Doherty

David Bates

Doherty

COMMITTEE REPORT

COMMITTEE: Election Law

BILL NUMBER: hb 212

TITLE:

DATE: 10-27-2011 **CONSENT CALENDAR:** YES ☐ NO ☐

- ☐ **OUGHT TO PASS**
- ☐ **OUGHT TO PASS W/ AMENDMENT**
- ☐ **INEXPEDIENT TO LEGISLATE**
- ☒ **INTERIM STUDY** (Available only 2nd year of biennium)

Amendment No. _____

STATEMENT OF INTENT:

The committee feels it is best to take a further look at the issue of conflicts of interest among employees of the executive branch. During sub-committee meetings, we saw merit in studying a potential conflict arising from an employee of the executive branch accepting compensation from a campaign committe that directly supports their superior.

COMMITTEE VOTE: 15-4

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

RESPECTFULLY SUBMITTED,

Rep. Shaun Doherty
For the Committee

Rev. 02/01/07 - Yellow

REGULAR CALENDAR

November 2, 2011

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on ELECTION LAW to which was referred HB212,

AN ACT relative to the definition of conflict of interest for executive branch officials and employees. Having considered the same, and being unable to agree with the Majority, report with the following Resolution:

RESOLVED, That it is INEXPEDIENT TO LEGISLATE.

Rep. David M Pierce

FOR THE MINORITY OF THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

MINORITY
COMMITTEE REPORT

Committee:	**ELECTION LAW**
Bill Number:	**HB212**
Title:	**relative to the definition of conflict of interest for executive branch officials and employees.**
Date:	**November 2, 2011**
Consent Calendar:	**NO**
Recommendation:	**INEXPEDIENT TO LEGISLATE**

STATEMENT OF INTENT

This bill would surrender to the government massive power to restrict public employees' participation in the political process. The chief sponsor defended the bill when he testified that because the federal Hatch Act "prohibits political activity by federal employees" and because the US Supreme Court has upheld the Hatch Act, we can and should give our state government the power to police political speech and activity by our public employees. But, in fact, the Hatch Act provides for exactly the opposite of what the sponsor testified. The Hatch Act says in its introductory paragraph that "an employee may take an active part in political management or in political campaigns." 5 USC 7323(a). It says rules can be passed "permitting employees . . . to take an active part in political management and political campaigns . . .." 5 USC 7325. Of course the Hatch Act is constitutional. It limits the government's power to regulate political participation and speech. HB 212 does not limit governmental power, it intensifies governmental power. The majority and minority both believe that conflict of interest issues should be addressed, but this legislature should not use a patently unconstitutional bill and misleading testimony as the means to do it. We're better than that.

Rep. David M Pierce
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

ELECTION LAW

HB212, relative to the definition of conflict of interest for executive branch officials and employees.
INEXPEDIENT TO LEGISLATE.

Rep. David M Pierce for the **Minority** of ELECTION LAW. This bill would surrender to the government massive power to restrict public employees' participation in the political process. The chief sponsor defended the bill when he testified that because the federal Hatch Act "prohibits political activity by federal employees" and because the US Supreme Court has upheld the Hatch Act, we can and should give our state government the power to police political speech and activity by our public employees. But, in fact, the Hatch Act provides for exactly the opposite of what the sponsor testified. The Hatch Act says in its introductory paragraph that "an employee may take an active part in political management or in political campaigns." 5 USC 7323(a). It says rules can be passed "permitting employees . . . to take an active part in political management and political campaigns . . .." 5 USC 7325. Of course the Hatch Act is constitutional. It limits the government's power to regulate political participation and speech. HB 212 does not limit governmental power, it intensifies governmental power. The majority and minority both believe that conflict of interest issues should be addressed, but this legislature should not use a patently unconstitutional bill and misleading testimony as the means to do it. We're better than that.

Original: House Clerk
Cc: Committee Bill File

MINORITY REPORT

COMMITTEE: Election Law

BILL NUMBER: HB 212

TITLE: _____

_____

DATE: 27 Oct 11 CONSENT CALENDAR: YES ☐ NO ☒

☐ OUGHT TO PASS

☐ OUGHT TO PASS W/ AMENDMENT

☒ INEXPEDIENT TO LEGISLATE

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

Amendment No. _____

STATEMENT OF INTENT:

COMMITTEE VOTE: 15-4

RESPECTFULLY SUBMITTED,

Rep. David Price
For the Minority

• Copy to Committee Bill File

Rev. 02/01/07 - Blue

HB212
Minority Report

This bill would surrender to the government massive power to restrict public employees' participation in the political process. The chief sponsor defended the bill when he testified that because the federal Hatch Act "prohibits political activity by federal employees" and because the US Supreme Court has upheld the Hatch Act, we can and should give our state government the power to police political speech and activity by our public employees. But, in fact, the Hatch Act provides for exactly the opposite of what the sponsor testified. The Hatch Act says in its introductory paragraph that "an employee may take an active part in political management or in political campaigns." 5 USC 7323(a). It says rules can be passed "permitting employees . . . to take an active part in political management and political campaigns . . .." 5 USC 7325. Of course the Hatch Act is constitutional. It limits the government's power to regulate political participation and speech. HB 212 does not limit governmental power, it intensifies governmental power. The majority and minority both believe that conflict of interest issues should be addressed, but this legislature should not use a patently unconstitutional bill and misleading testimony as the means to do it. We're better than that.

David Pierce

HB212
Minority Report

This bill would surrender to the government massive power to restrict public employees' participation in the political process. The chief sponsor defended the bill when he testified that because the federal Hatch Act "prohibits political activity by federal employees" and because the US Supreme Court has upheld the Hatch Act, this bill should be upheld as constitutional. But, in fact, the Hatch Act provides for exactly the opposite of what the sponsor testified. The Hatch Act says in its introductory paragraph that "an employee may take an active part in political management or in political campaigns." 5 USC 7323(a). It says rules can be passed "permitting employees . . . to take an active part in political management and political campaigns . . .." 5 USC 7325. Of course the Hatch Act is constitutional. It limits the government's power to regulate political participation and speech. HB 212 does not limit governmental power, it intensifies governmental power. We should not give our state government the power to police political speech and activity by our public employees. The majority and minority both believe that conflict of interest issues should be addressed, but this legislature should not use a patently unconstitutional bill and misleading testimony as the means to do it. We're better than that.

David Bates subject to Speaker's approval

New Hampshire General Court - Bill Status System

Docket of HB212

Docket Abbreviations

Bill Title: relative to the definition of conflict of interest for executive branch officials and employees.

Official Docket of **HB212**:

Date	Body	Description
1/19/2011	H	Introduced 1/6/2011 and Referred to Election Law; **HJ 11**, PG.177
1/26/2011	H	Public Hearing: 2/1/2011 1:00 PM LOB 308
3/2/2011	H	Executive Session: 3/9/2011 10:30 AM LOB 308
3/9/2011	H	Retained in Committee; **HC 27**, PG.823
9/27/2011	H	Retained Bill - Subcommittee Work Session: 10/6/2011 1:00 PM LOB 308
10/19/2011	H	Retained Bill - Executive Session: 10/27/2011 LOB 308 1:00 PM or Immediately Following Public Hearing
11/2/2011	H	Committee Report: Refer to Interim Study for Jan 4 (Vote 15-4; RC); **HC 70**, PG.2217
1/5/2012	H	Refer to Interim Study: MA VV; **HJ 8**, PG.482

NH House NH Senate

INTERIM STUDY
COMMITTEE REPORT

COMMITTEE: Election Law

BILL NUMBER: HB 212

TITLE: relative to the definition of conflict of interest for executive branch officials and employees.

DATE: October 16, 2012

☐ **RECOMMENDED FOR FUTURE LEGISLATION**

☒ **NOT RECOMMENDED FOR FUTURE LEGISLATION**

STATEMENT OF INTENT: (May be handwritten)

The purpose of this bill was to strengthen the definition of "conflict of interest" for executive branch officials and employees. The committee agrees that conflicts of interest are unacceptable. However, the questionable judgment demonstrated by those involved in the matter that gave rise to the filing of this legislation is unlikely to be repeated. That particular problem may have been better avoided if the disclosure requirements for reporting campaign contributions and expenses called for more frequent reporting. If the public is made aware, it is unlikely that they will tolerate someone getting paid by a campaign to do political work for the same person who hired them, at taxpayer's expense, to do a state job that should be nonpartisan.

COMMITTEE VOTE: 10-0 (Attach Committee Voting Sheet)

Rep. David Bates

INTERIM STUDY
COMMITTEE REPORT

COMMITTEE: Election Law

BILL NUMBER: HB 212

TITLE: relative to definition of Conflict of interest for executive branch officials and employees

DATE: Oct. 16, 2012

☐ **RECOMMENDED FOR FUTURE LEGISLATION**

☒ **NOT RECOMMENDED FOR FUTURE LEGISLATION**

STATEMENT OF INTENT: (May be handwritten)

The Committee feels that this is a serious matter. But at this time more study is needed as well as more

COMMITTEE VOTE: 10-0 (Attach Committee Voting Sheet)

Rep. [signature]
For the Committee

Rev. 7/98