

Bill as
Introduced

HB 1548 - AS INTRODUCED

2012 SESSION

12-2442

03/09

HOUSE BILL

1548

AN ACT

relative to access to ballots.

SPONSORS:

Rep. Cohn, Merr 6; Rep. S. Tremblay, Rock 3; Rep. Birdsell, Rock 8

COMMITTEE:

Election Law

ANALYSIS

This bill repeals provisions exempting ballots from the provisions of RSA 91-A.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struck through]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 1548 - AS INTRODUCED

12-2442
03/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to access to ballots.

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

- 1 **1 Repeal.** The following are repealed:
- 2 **I.** RSA 659:95, II, relative to exempting ballots from the provisions of RSA 91-A.
- 3 **II.** RSA 660:16, II, relative to exempting ballots from the provisions of RSA 91-A.
- 4 **III.** RSA 669:33, II, relative to exempting ballots from the provisions of RSA 91-A.
- 5 **2 Effective Date.** This act shall take effect 60 days after its passage.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 1548 Date 1/26/12
Committee Election Law

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

[illegible]

Hearing Minutes

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON HB 1548

BILL TITLE: relative to access to ballots.

DATE: 1/26/2012

LOB ROOM: 308 **Time Public Hearing Called to Order:** 11:40 am

Time Adjourned: 12:18 pm

(please circle if present)

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

Bill Sponsors: Rep. Cohn, Merr 6; Rep. S. Tremblay, Rock 3; Rep. Birdsell, Rock 8

TESTIMONY

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

Deputy Scanlon, Secretary of State – Opposes the Bill. This bill exempts ballots and other materials from right to know law. The exemption was put on in the past. Not So. The Ballots are sealed for possible court at a later date. When our office was asked to review past election, the Legislature decided the ballots are not subject to the right to know law. They are because boxes have to be sealed for recount and to know they have not been tampered with and true for court cases. 659:5 what this does is repeals exemption prior to recount. 660:16 same thing to commission. 669:33 Ballots in local. Makes all ballots subject to being viewed before recount. Would extend possibility that people's identity would be exposed. Then some ballots wouldn't remain secret. Some time specific ballots can be submitted a person's ballot would no longer be secret. Bribery, showing how to vote, Coercion, marks could be seen by a funny mark. People could be controlled by # or force is voting. If exemptions were removed there's no process in this bill. Need strong controls over ballots and ballots be handled by unauthorized to insure no tampering.

Rep. John Gimas – Farm of voter fraud dormant for years. What would person do to do fraud?

Deputy Scanlon – If I had \$ I could bribe a person to mark a ballot a certain way.

Rep. Joseph Thomas – the ballot is cast anyone can see it.

Deputy Scanlon – No one sees it.

Rep. Joseph Thomas – Election official?

Deputy Scanlon – Once recount is done they are sealed. Very controlled in recounts. In statute if checklist is sealed in box by mistake, the Secretary of State has to witness retrieval of mistaken paper, then resealed.

Rep. Kathleen Hoelzel – Would you review sealing boxes. How do we work it when boxes are opened for right to know?

Deputy Scanlon – Need a process for opening and resealing to make sure ballots are not tampered with, huge \$.

Rep. Seth Cohn – Needed to do something, went looking into details that something had been slipped in 2003 the exemptions were made in Committee of Conference. Right to know 659:35 already addresses voter fraud by marking a ballot. If the concern is bribery it's already illegal and "This is too complication" 91a can have cost associated the Secretary of State can have a 91A cost Secretary of State names a price per ballot to pay for access to ballots. If recount if as a citizen you are concerned about what's going on. You have no recourse. What I discovered is the people who want to see are concerned about the integrity of the physical, paper ballots. The people are concerned. There has been ballot tampering in other states found. 91A costs allow recovery of cost. The citizens have a right to the ballots.

Rep Kathleen Hoelzel – Would you agree that my ballot is private and I shouldn't be?

Rep. Seth Cohn – I agree

Rep. Kathleen Hoelzel – The overseas and absentee ballots can be identified.

Rep. Seth Cohn – May not be able to comply with 91A.

Rep. Kathleen Hoelzel – My ballot just as private as any ballot.

Rep. Seth Cohn – Privacy is maintained once ballot is cast.

Rep. David Perry – 659:35 Ballots have been seen with marks on them.

Rep. Seth Cohn – I believe that but the public's right to know overrides potential crim.

Nancy Johnson, City & Town Clerks Association – Opposes Bill. The possibility that a voter may be ID'd costs that wouldn't be covered.

Bill Gardener, Secretary of State Office – In the course of history a free and independent society, secret ballot is sacred. Ballot means – secret in old English dictionary. Even though there's a law that says you can't mark ballot. One particular ballot vote for Mr. Smith and then the person bribing will know who voted. By accessing ballots. This is important law. The privacy of a ballot is/has been understood. So now the secrecy exemption is made clear in existing law. We cannot take away from secrecy of law.

Rep. David Bates – Do you know was there ever a request for viewing ballots? And 2) why was this law put into place to begin with?

Bill Gardner, SOS – No requests. I can't say why it was put into law.

Deputy Scanlon – on Cohn – mentioned groups re: cover ups. Bill amended by Senate not in committee of conference. Not the case. I gave the group information. They came back with research. Look up history of bill no sneaky tactics. Recourse for problem with ballots can go to court.

Rep. Kathleen Hoelzel – Why 91A exemption in the 1st place.

Deputy Scanlon – 2002 requests to see ballots. No not policy. Statutory support for secrecy.

Rep. Seth Cohn – 91A was only earlier requests were just getting started.

Rep. Peter Schmidt – Opposes bill. Premise is false. Right to know is for public bodies. The ballot becomes a person's ballot when a person takes it and marks it privately. The ballot are publically counted but very controlled. Unfounded need to access private ballot. 1TL.

Respectfully submitted,

Susan C. DeLemus

Susan DeLemus, Clerk

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON HB 1548

BILL TITLE: relative to access to ballots.

DATE: 1/26/12.

LOB ROOM: 308

Time Public Hearing Called to Order:

Time Adjourned:

Open 11:40

(please circle if present)

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

Bill Sponsors: Rep. Cohn, Merr 6; Rep. S. Tremblay, Rock 3; Rep. Birdsell, Rock 8

TESTIMONY

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

Deputy Scanlan SOS Opposition to Bill

① This bill exempts ballots + other materials
Right to know law

The exemption was put on in the past.

Not so. The Ballots are sealed for possible
court at a later date. When our office was
asked to review past election. The legislature
decided the ballots are not subject to the
right to know law.

They are because boxes have to be sealed for
recount + they have not been tampered w/ +
true for court cases

659:5 What this does reveals exemption prior to recount

660:16 Same thing to commission

669:33 Ballots in local. Makes all ballots subject to being view before recount.

Would extend possibility that people's identity would be exposed. Then some Ballots wouldn't remain secret. Some time specific ballots can be submitted a persons ballot would no longer be secret

Bribery

Showing how vote

Coercion

marks could be seen by a funny mark.

People could be controlled by force is voting

If exemptions were removed there's no process in this bill. Need strong controls over ballots. ^{ballots} not be handled by unauthorised. To insure ~~not~~ no tampering.

Gimas - Form of voter fraud dormant for years. What would person do to do fraud.

Scanlan - If I had \$ I could bribe a person to mark a ballot a certain way.

Thomas - ~~WB~~ Once ballot is cast anyone see it

Scanlan - No one sees it

Thomas - Election Official

Scanlan - Once recount is done they are sealed
Very controlled in recounts. In statute
if checklist is sealed in box by mistake
the SOS has to witness retrieval
of mistaken paper. Then resealed

Hoeyel - Would you review sealing boxes
How do we work it when boxes are
opened for right to know

Scanlan - Need a process for opening + resealing
to make sure ballots are not tampered w/
huge \$

Seth Cohn -

Needed to do something. Went looking into
details that something had been slipped in
2003 the exemptions were made in
Committee of Conference. Right to know
659:35 already addresses voter fraud by
marking a ballot. If the concern is bribery
it's already illegal + "This is too complicated"
91a can have cost associated the SOS
can have a 91A cost ^{SOS} names, a price per
ballot to pay for access to ballots. If
recount If as a citizen you are concerned
about what's going on. You have no recourse

What I discovered is the people who want see are concerned about the integrity of the physical, paper ballots. The people are concerned. There has been ballot tampering in other states found. 91A costs allow recovery of cost. The citizens have a right to the ballots.

Hoegel - would you agree that my ballot is private + I shouldn't be

Cohn - I agree

Hoegel - the overseas + absentee ballots can be identified

Cohn - May not be able to comply w/ 91A

Hoegel - My ballot just as private as any ballot.

Cohn - Privacy is maintained once ballot is cast.

Perry - 659:35 Ballots have been seen w/ marks on them

Cohn - I believe that but the public's right to know overrides potential for crime.

Nancy Johnson - ^{City + Town} Clerks Association
oppose

Other possibility that a voter may be ID'd.

@ Costs that wouldn't be covered

Bill Gardener SOS

In the course of History a free & independent society. Secret ballot is sacred.

Ballot means - secret in old English dictionary.

~~Fr~~ Even though there's a law that says you can't mark ballot.

One particular ballot vote for Mr Smith & then the person marking ~~it~~ will know who voted. By accessing ballots.

This is important ~~B~~ law. The privacy of a ballot is/has been understood. So now the secrecy ~~ex~~ exemption is made clear in existing law.

We cannot take away from secrecy of Law.

Bates - ① do you know was there ever a request
② for viewing ballots?
Why was this law put into place to begin with

Gardener No requests

I can't say why it was put into law.

Scanlan -

on Cohn mentioned groups re: cover up
Bill amended by Senate not in
committee of conference. Not the case.

I gave the group info. They came back
with research. Look up history of bill
no sneaky tactics. Recourse for problem
w/ ballots can go to court.

Hoezel - Why 91A exemption in the 1st place
Scanlan - 2002 requests to see ballots. No hot
policy. Statutory support for privacy

Cohn - 91A was only earlier requests were
just getting started

Close 12:16

Peter Smitt ~~Susan C.~~
Opposes bill

premise is ~~fact~~ false. Right to
know is for public bodies. The ~~first~~
ballot becomes a persons ballot when a
person takes it + marks it privately.

The ~~no~~ ballot are publically counted but
very controlled. The ballot becomes a private
document once a person takes + marks it.
Unfounded need to access private ballot.

ITL

Close 12:18 - Susan C. Dehemus

Testimony



State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

Representative Joe Pitre, Education Committee

Contact: joe@joepitre.com or 603-755-2447

The intent of House Bill 1714 is to clarify RSA 91-A:2 II and remove the need for the word elections from the RSA. Voting by secret ballot is already part of the process of town and school district meetings.

At the last Strafford County meeting of delegates to elect officers, a secret ballot vote was taken contrary to this chapter. A secret ballot is proper for voting as an individual, but not for voting as a representative (i.e. school board member, selectman, county delegate etc.) of a constituent. All votes must be recorded on each issue for transparency and accountability.

I thank the Election Law Committee for their attention and help to make accountable and transparent government for our constituents.

91-A:2 Meetings Open to Public. –

I. For the purpose of this chapter, a "meeting" means the convening of a quorum of the membership of a public body, as defined in RSA 91-A:1-a, VI, or the majority of the members of such public body if the rules of that body define "quorum" as more than a majority of its members, whether in person, by means of telephone or electronic communication, or in any other manner such that all participating members are able to communicate with each other contemporaneously, subject to the provisions set forth in RSA 91-A:2, III, for the purpose of discussing or acting upon a matter or matters over which the public body has supervision, control, jurisdiction, or advisory power. A chance, social, or other encounter not convened for the purpose of discussing or acting upon such matters shall not constitute a meeting if no decisions are made regarding such matters. "Meeting" shall also not include:

- (a) Strategy or negotiations with respect to collective bargaining;
- (b) Consultation with legal counsel;
- (c) A caucus consisting of elected members of a public body of the same political party who were elected on a partisan basis at a state general election or elected on a partisan basis by a town or city which has adopted a partisan ballot system pursuant to RSA 669:12 or RSA 44:2; or
- (d) Circulation of draft documents which, when finalized, are intended only to formalize decisions previously made in a meeting; provided, that nothing in this subparagraph shall be construed to alter or affect the application of any other section of RSA 91-A to such documents or related communications.

II. Subject to the provisions of RSA 91-A:3, all meetings, whether held in person, by means of telephone or electronic communication, or in any other manner, shall be open to

the public. Except for town meetings, school district meetings, and elections, no vote while in open session may be taken by secret ballot. Any person shall be permitted to use recording devices, including, but not limited to, tape recorders, cameras, and videotape equipment, at such meetings. Minutes of all such meetings, including names of members, persons appearing before the public bodies, and a brief description of the subject matter discussed and final decisions, shall be promptly recorded and open to public inspection not more than 5 business days after the meeting, except as provided in RSA 91-A:6, and shall be treated as permanent records of any public body, or any subordinate body thereof, without exception. Except in an emergency or when there is a meeting of a legislative committee, a notice of the time and place of each such meeting, including a nonpublic session, shall be posted in 2 appropriate places one of which may be the public body's Internet website, if such exists, or shall be printed in a newspaper of general circulation in the city or town at least 24 hours, excluding Sundays and legal holidays, prior to such meetings. An emergency shall mean a situation where immediate undelayed action is deemed to be imperative by the chairman or presiding officer of the public body, who shall post a notice of the time and place of such meeting as soon as practicable, and shall employ whatever further means are reasonably available to inform the public that a meeting is to be held. The minutes of the meeting shall clearly spell out the need for the emergency meeting. When a meeting of a legislative committee is held, publication made pursuant to the rules of the house of representatives or the senate, whichever rules are appropriate, shall be sufficient notice. If the charter of any city or town or guidelines or rules of order of any public body require a broader public access to official meetings and records than herein described, such charter provisions or guidelines or rules of order shall take precedence over the requirements of this chapter. For the purposes of this paragraph, a business day means the hours of 8 a.m. to 5 p.m. on Monday through Friday, excluding national and state holidays. HB 1714 – AS INTRODUCED

2012 SESSION

12-2433

01/10

HOUSE BILL 1714

AN ACT relative to the term "election" for the purposes of public meetings.

SPONSORS: Rep. Pitre, Straf 3; Rep. L. Jones, Straf 1; Rep. K. Jones, Straf 1; Rep. Leonard, Straf 1

COMMITTEE: Election Law

ANALYSIS

This bill clarifies that elections for the purposes of public meetings cannot be held by secret ballot.

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.

12-2433

01/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to the term "election" for the purposes of public meetings.

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

1 Meetings Open to the Public; Elections. Amend RSA 91-A:2, II to read as follows:

II. Subject to the provisions of RSA 91-A:3, all meetings, whether held in person, by means of telephone or electronic communication, or in any other manner, shall be open to the public. Except for town meetings[,] and school district meetings[, and elections], no vote while in open session may be taken by secret ballot. Any person shall be permitted to use recording devices, including, but not limited to, tape recorders, cameras, and videotape equipment, at such meetings. Minutes of all such meetings, including names of members, persons appearing before the public bodies, and a brief description of the subject matter discussed and final decisions, shall be promptly recorded and open to public inspection not more than 5 business days after the meeting, except as provided in RSA 91-A:6, and shall be treated as permanent records of any public body, or any subordinate body thereof, without exception. Except in an emergency or when there is a meeting of a legislative committee, a notice of the time and place of each such meeting, including a nonpublic session, shall be posted in 2 appropriate places one of which may be the public body's Internet website, if such exists, or shall be printed in a newspaper of general circulation in the city or town at least 24 hours, excluding Sundays and legal holidays, prior to such meetings. An emergency shall mean a situation where immediate undelayed action is deemed to be imperative by the chairman or presiding officer of the public body, who shall post a notice of the time and place of such meeting as soon as practicable, and shall employ whatever further means are reasonably available to inform the public that a meeting is to be held. The minutes of the meeting shall clearly spell out the need for the emergency meeting. When a meeting of a legislative committee is held, publication made pursuant to the rules of the house of representatives or the senate,

whichever rules are appropriate, shall be sufficient notice. If the charter of any city or town or guidelines or rules of order of any public body require a broader public access to official meetings and records than herein described, such charter provisions or guidelines or rules of order shall take precedence over the requirements of this chapter. For the purposes of this paragraph, a business day means the hours of 8 a.m. to 5 p.m. on Monday through Friday, excluding national and state holidays.

3 Effective Date. This act shall take effect January 1, 2013.

Voting Sheets

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on HB 1548

BILL TITLE: relative to access to ballots.

DATE: 1/26

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. Hoelzel

Seconded by Rep. Leishman

Vote: 11-2 (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: YES

(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 1548

BILL TITLE: relative to access to ballots.

DATE:

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. ~~Hoelzel~~ Hoelzel

Seconded by Rep. Leishman

Vote: 11/2 (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: yes

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Kathleen Hoelzel, Clerk

Motion: ITL Amendment #: _____

Committee Report

CONSENT CALENDAR

January 30, 2012

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on ELECTION LAW to which was
referred HB1548,**

**AN ACT relative to access to ballots. Having considered
the same, report the same with the following**

**Resolution: RESOLVED, That it is INEXPEDIENT TO
LEGISLATE.**

Rep. Kathleen M Hoelzel

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	ELECTION LAW
Bill Number:	HB1548
Title:	relative to access to ballots.
Date:	January 26, 2012
Consent Calendar:	YES
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill would allow public access to ballots after an election. The bill was opposed by the Secretary of State and the City and Town clerks association. Ballots are now sealed with tamperproof tape and stored until a recount. We must protect the right of the voter to keep his/her ballot secret and private UOCAVA and accessible voting ballot could be identified allowing public access to ballots would invade on privacy. "Once a voter is handed his or her ballot it is his private ballot" and should not be public

Vote 11-2.

Rep. Kathleen M Hoelzel
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

ELECTION LAW

HB1548, relative to access to ballots. **INEXPEDIENT TO LEGISLATE.**

Rep. Kathleen M Hoelzel for **ELECTION LAW**. This bill would allow public access to ballots after an election. The bill was opposed by the Secretary of State and the City and Town clerks association. Ballots are now sealed with tamperproof tape and stored until a recount. We must protect the right of the voter to keep his/her ballot secret and private UOCAVA and accessible voting ballot could be identified allowing public access to ballots would invade on privacy. "Once a voter is handed his or her ballot it is his private ballot" and should not be public **Vote 11-2.**

Original: House Clerk
Cc: Committee Bill File

Statement of Intent – HB 1548

This bill would allow public access to ballots after an election. The bill was opposed by the Secretary of State and the City and Town clerks association. Ballots are now sealed with tamperproof tape and stored until a recount. We must protect the right of the voter to keep his/her ballot secret and private. UOCAVA and accessible voting ballot could be identified allowing public access to ballots would invade on privacy. "Once a voter is handed his or her ballot it is his private ballot" and should not be public

Committee Vote 11-2

INEXPEDIENT TO LEGISLATE

CONSENT CALENDAR

Dave Bates

COMMITTEE REPORT

COMMITTEE: Election Law

BILL NUMBER: hb 1548

TITLE: retalire to access to ballots

DATE: Jan. 27, 2012 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:

This bill would allow public access to ballots after an election. The bill was opposed by the Secretary of State and the City and Town Clerks Association. Ballots are now sealed ^{with tamperproof tape} and stored until a recount. We must protect the right of the voter to keep his/her ballot secret and private. UOCAVA and accessible voting ballot could be identified. Allowing public access to ballots would invade on privacy. "Once a voter is handed his or her ballot it is his private ballot" and should not be public.

COMMITTEE VOTE: 11-2

RESPECTFULLY SUBMITTED,

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

Rep.

Kathleen M. Hoelzel
For the Committee