Committee Report

CONSENT CALENDAR

February 17, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Labor, Industrial and Rehabilitative Services to which was referred HB 258,

AN ACT relative to employee time records. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Gregg Hough

FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Labor, Industrial and Rehabilitative Services**
Bill Number:	**HB 258**
Title:	**relative to employee time records.**
Date:	**February 17, 2021**
Consent Calendar:	**CONSENT**
Recommendation:	**OUGHT TO PASS WITH AMENDMENT 2021-0168h**

STATEMENT OF INTENT

This bill was to allow the required records between employers and employees to be processed and retained electronically. The committee found that the goal of this bill would be better suited with an amendment that placed the language in a different RSA chapter. The Amendment was offered in order to help clarify the existing law and situated HB258 in a suitable RSA section. Both the amendment and the bill were approved.

Vote 20-0.

Rep. Gregg Hough
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Labor, Industrial and Rehabilitative Services
HB 258, relative to employee time records. **OUGHT TO PASS WITH AMENDMENT.**
Rep. Gregg Hough for Labor, Industrial and Rehabilitative Services. This bill was to allow the required records between employers and employees to be processed and retained electronically. The committee found that the goal of this bill would be better suited with an amendment that placed the language in a different RSA chapter. The Amendment was offered in order to help clarify the existing law and situated HB258 in a suitable RSA section. Both the amendment and the bill were approved. **Vote 20-0.**

Original: House Clerk
Cc: Committee Bill File

Rep. Yokela, Rock. 33
January 29, 2021
2021-0168h
04/06

Amendment to HB 258

Amend the title of the bill by replacing it with the following:

AN ACT permitting wage and hour records to be approved and retained electronically.

Amend the bill by replacing section 1 with the following:

1 Employers' Records; Records of Hours and Wages. Amend RSA 279:27 to read as follows:

279:27 Records of Hours and Wages. Every employer of employees shall keep a true and accurate record of the hours worked by each, wages paid to each, and classification of employment when necessary, and shall furnish to the commissioner or the commissioner's authorized representative upon demand a sworn statement of the same. Employers shall retain such records of hours and wages for 3 years and such records shall be open to inspection by the commissioner or the authorized representative at any reasonable time, subject to the provisions of RSA 273:9. Every employer subject to a statutory minimum wage shall post and make available to his or her employees a copy of such statutory minimum wage. Employers shall be furnished copies of posters on request without charge. ***Records required by this section may be made, signed, acknowledged, approved, and retained electronically.***

2021-0168h

AMENDED ANALYSIS

This bill permits wage and hour records to be approved and retained electronically.

Voting Sheets

HOUSE COMMITTEE ON LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

EXECUTIVE SESSION on

BILL TITLE: HB 258 relative to time records

DATE: 2/11/21

LOB ROOM:

MOTION: (Please check one box)

☐ OTP ☐ ITL ☐ Retain (1st year) ☒ Adoption of Amendment # 0168h *(if offered)*

☐ Interim Study (2nd year)

Moved by Rep. Hough Seconded by Rep. Seaworth Vote: 20-0

MOTION: (Please check one box)

☐ OTP ☒ OTP/A ☐ ITL ☐ Retain (1st year) ☐ Adoption of Amendment # _____ *(if offered)*

☐ Interim Study (2nd year)

Moved by Rep. Hough Seconded by Rep. Seaworth Vote: 20-0

MOTION: (Please check one box)

☐ OTP ☐ OTP/A ☐ ITL ☐ Retain (1st year) ☐ Adoption of Amendment # _____ *(if offered)*

☐ Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

☐ OTP ☐ OTP/A ☐ ITL ☐ Retain (1st year) ☐ Adoption of Amendment # _____ *(if offered)*

☐ Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: X **YES** ____ **NO**

Minority Report? _____ Yes _____ No If yes, author, Rep: _____ Motion _____

Respectfully submitted: _____
Rep Jonathan Mackie, Clerk

OFFICE OF THE HOUSE CLERK

1/22/2021 10:07:52 AM
Roll Call Committee Registers Report

2021 SESSION

Labor, Industrial and Rehabilitative Services

Bill #: HB 258 Motion: OTP-A AM #: _____ Exec Session Date: 2/1/21

Members	YEAS	Nays	NV
Infantine, William J. Chairman	20		
Seaworth, Brian Vice Chairman	1		
~~Avellani, Lino~~ M. Melvin	9		
Callum, John M.	2		
Mackie, Jonathan D. Clerk	3		
Nunez, Hershel	4		
Warden, Mark	5		
Turcotte, Leonard P.	6		
~~Prout, Andrew~~ J. Torosian	10		
Boyd, Stephen E.	7		
Hough, Gregg	8		
Sullivan, Brian M.	11		
Soucy, Timothy A.	12		
Baroody, Benjamin C.	13		
Cahill, Michael D.	14		
DiSilvestro, Linda A.	15		
Schmidt, Janice E.	16		
Toomey, Dan	17		
Bouchard, Donald J.	18		
Adjutant, Joshua	19		
TOTAL VOTE:	20	0	

OFFICE OF THE HOUSE CLERK

1/22/2021 10:07:52 AM
Roll Call Committee Registers Report

2021 SESSION

Labor, Industrial and Rehabilitative Services

Bill #: HB 258 **Motion:** Adopt Amendment **AM #:** 0168h **Exec Session Date:** 2/11/21

Members	YEAS	Nays	NV
Infantine, William J. Chairman	20		
Seaworth, Brian Vice Chairman	1		
~~Avellani, Lino M.~~ Melvin	8		
Callum, John M.	2		
Mackie, Jonathan D. Clerk	3		
Nunez, Hershel	4		
Warden, Mark	5		
Turcotte, Leonard P.	6		
~~Prout, Andrew J.~~ Torosian	7		
Boyd, Stephen E.	9		
Hough, Gregg	10		
Sullivan, Brian M.	11		
Soucy, Timothy A.	12		
Baroody, Benjamin C.	13		
Cahill, Michael D.	14		
DiSilvestro, Linda A.	15		
Schmidt, Janice E.	16		
Toomey, Dan	17		
Bouchard, Donald J.	18		
Adjutant, Joshua	19		
TOTAL VOTE:	20	0	

Rep. Yokela, Rock. 33
January 29, 2021
2021-0168h
04/06

Amendment to HB 258

Amend the title of the bill by replacing it with the following:

AN ACT permitting wage and hour records to be approved and retained electronically.

Amend the bill by replacing section 1 with the following:

1 Employers' Records; Records of Hours and Wages. Amend RSA 279:27 to read as follows:

279:27 Records of Hours and Wages. Every employer of employees shall keep a true and accurate record of the hours worked by each, wages paid to each, and classification of employment when necessary, and shall furnish to the commissioner or the commissioner's authorized representative upon demand a sworn statement of the same. Employers shall retain such records of hours and wages for 3 years and such records shall be open to inspection by the commissioner or the authorized representative at any reasonable time, subject to the provisions of RSA 273:9. Every employer subject to a statutory minimum wage shall post and make available to his or her employees a copy of such statutory minimum wage. Employers shall be furnished copies of posters on request without charge. ***Records required by this section may be made, signed, acknowledged, approved, and retained electronically.***

UNAPPROVED

2021-0168h

AMENDED ANALYSIS

This bill permits wage and hour records to be approved and retained electronically.

UNAPPROVED

Public Hearing

HOUSE COMMITTEE ON LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

PUBLIC HEARING ON

BILL TITLE: HB 258 relative to employee time records

DATE: 1/28/21

ROOM: **Time Public Hearing Called to Order: 11:00**

Time Adjourned: 11:30

(members high-lighted in red were absent)

Committee Members: Reps. Infantine, Seaworth, Mackie, Avellani, Callum, Nunez Warden, Turcotte, Prout, Boyd, Hough, Sullivan, Soucy, Baroody, Cahill, DiSilvestro, J. Schmidt, Toomey, Bouchard and Adjutant

Bill Sponsors: Rep. Yokela

TESTIMONY

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

*Sponsor Rep.Yokela Introduced the bill. He testified that the bill as written does not accomplish what his legislative intent was.

Q Rep. Infantine- Would "may" be better than "shall"?
A Yes
Q Is this only for hour records or could it also be used as acknowledgement of raises, etc?
A No, just hours, but it could be expanded
Q Rep. Adjutant- Would it make sense to get rid of the "and" right before paragraph VIII?
A Looking at the entire RSA the "shall" earlier in the RSA is where the problem is.
Q Rep Avellani- Would an amendment to paragraph VI be better?
A Yes

Rep. Sullivan said: Perhaps a member could work with the sponsor to amend this bill?
Chairman Infantine replied that would be appropriate.

Rudy Ogden, deputy commissioner of Labor testified:
We consider this to already be permitted. RSA 279-27 might be a better place to change to put it into an RSA.

Q Rep. Adjutant- Since the dept. Of labor already permits this what would be necessary to clarify it.
A Change the RSA to be clear.
Q Rep. Toomey- Why is it necessary that the employee sign the changes
A By law employees have to sign that they agree with any time card change made by the employer
Q Rep. Prout- Would it better just to change the rule to acknowledge that electronic signatures are acceptable?
A Yes

House Remote Testify

Labor, Industrial and Rehabilitative Services Committee Testify List for Bill HB258 on 2021-01-28

Support: 3 Oppose: 0 Neutral: 1 Total to Testify: 2

Export to Excel

Name	City, State Email Address	Title	Representing	Position	Testifying	Non-Germane	Signed Up
Yokela, Josh	josh.yokela@leg.state.nh.us	An Elected Official	Rockingham 33	Support	Yes (0m)	No	1/25/2021 2:29 PM
Ogden, Rudolph	rudolph.w.ogden@dol.nh.gov	State Agency Staff	New Hampshire Department of Labor	Neutral	Yes (0m)	No	1/28/2021 7:55 AM
Rathbun, Eric	ericsrathbun@gmail.com	A Member of the Public	Myself	Support	No	No	1/27/2021 9:53 PM
ploszaj, tom	tom.ploszaj@leg.state.nh.us	An Elected Official	Myself	Support	No	No	1/27/2021 11:08 PM

Testimony

Archived: Thursday, April 15, 2021 2:07:01 PM
From: Josh Yokela
Sent: Wednesday, January 27, 2021 3:43:49 PM
To: ~House Labor, Industrial and Rehabilitative Services
Subject: HB258 and HB259
Importance: Normal
Attachments:
NH Labor.pdf

Hello Labor, Industrial and Rehabilitative Services Committee,

The person who requested asked me to introduce HB258 and HB259 is afraid of potential retaliation from the department for advocating for the change, so I told them I would pass on their statement anonymously. See attached

Thanks for your consideration of this topic and I look forward to presenting them at the hearing tomorrow.

Hon. Josh Yokela
www.JoshYokelaForNH.com
603-722-0501

To Whom it May Concern:

Thank you for considering HB 259 and HB 258 relative to employee uniforms and employee time records.

Perhaps, to some, these changes may seem minor. But to an employer, especially relative to the challenges that we have faced over the last 12 months, these small changes will have a large impact.

Relative to employee uniforms, our national company offers additional company sweatshirts for purchase that employees from surrounding states (and most other states in the country) have the choice to purchase (Massachusetts, Vermont, Maine all allow for optional employee uniform purchases). Employees from New Hampshire, unfortunately, have to miss out on the benefit of purchasing these low cost sweatshirts. The current wording of the legislation states that uniforms must be at no cost to the employee. Perhaps the spirit of the law would allow additional purchases, but the law as written does not provide that confidence to employers to allow these additional purchases.

We provide all of the necessary uniforms for our employees, but many times over my tenure with the company, I have seen employees upset that they can't participate in purchasing something extra at their own choice. Even small pieces of engagement are an extraordinary tool in employment and retention, and this can contribute to that. Even more importantly, if employees want to make the *choice* to make these purchases, no one should stop them from exercising that freedom of choice.

Relative to employee time records, the law as it stands states that "time records with entries that are altered shall be signed or initialed by the employee whose record is altered." The spirit of the law is that no one wants employees to be paid less than what they have earned through their hours worked. However, the law as written is, in my opinion, outdated and causes unnecessary stress and time spent on administrative tasks. Currently, my company has the capability where all employees have digital access to their timecards. They can see all of their time punches as is, at any time, with no restrictions. Our ideal situation is to have employees simply look at their timecard, press the "approve button," and be done. Right now, every change to a timecard has to be initialed. On first glance, this may not seem serious. Let me list some of the instances considered a "timecard change," and put it into perspective.

Additions of paid time off; unpaid time off; missed punches; punching out instead of in; punching "meal in" instead of "meal out"; punching "in" instead of "meal out"; punching out instead of "meal out" - and all the variatons of this; manual punching in the computer instead of using the time clock; timecard down time; holiday pay changes; hours worked at another location.

These are just a few examples (there are more) of what are considred "alterations." My small store has approximately 30 employees at any given time, and "alterations" can sometimes span twenty pages of signatures - and some of this simply is because employees forgot to punch in or out. The time that it takes to get 20 pages of signatures can be overwhelming, especially when this is a biweekly task. As surely the agency is aware of, not only are budget hours tight, many of us are stretching just to achieve basic standards. Allowing employees the option to simply review their timecard and hit an approve button would save a significant amount of time, and it would adjust our legislation to match the

efficiencies that the digital age affords us. With this change, our employees would still be afforded the transparency to ensure they are paid for their hours worked, with no sacrifice to that transparency, while also affording employers and employees alike the extra time that they need and deserve to focus on things beyond unnecessary administrative tasks. Our company already has the digital capabilities to comply, and others who don't, can simply continue to comply with the expectation of initials and signatures for timecard adjustments.

Please consider passing these bills. We needs to do everything we can for national and local businesses to save time and increase employee engagement.

Please forgive me for writing this letter anonymously. Hopefully you can understand, during these uncertain and stressful times, that I wish to remain anonymous. This in no way reflects a lack of care about this topic.

Sincerely,

A New Hampshire employer

Bill as Introduced

HB 258 - AS INTRODUCED

2021 SESSION

21-0228
04/06

HOUSE BILL ***258***

AN ACT relative to employee time records.

SPONSORS: Rep. Yokela, Rock. 33

COMMITTEE: Labor, Industrial and Rehabilitative Services

ANALYSIS

This bill requires an employer to permit an employee to electronically sign or acknowledge alterations to such employee's wage and hour records.

- -

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 258 - AS INTRODUCED

21-0228
04/06

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to employee time records.

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

1 Protective Legislation; Notification, Posting, and Records. Amend RSA 275:49, VI-VII to read as follows:

VI. Make such records of the persons employed by him or her, including wage and hour records, preserve such records for 3 years, and make such reports therefrom to the commissioner, as are required in statute for the enforcement of the provisions of this subdivision; [~~and~~]

VII. Post and make available to his or her employees the following: "It is illegal in New Hampshire under both state and federal law to pay employees different wages for the same work based solely on sex. If you think that your employer has violated this provision, please contact the New Hampshire Department of Labor." This notice shall also include the address, phone number, and email address of department personnel to be contacted with complaints under this subdivision, as well as an Internet link to RSA 275:37***; and***

VIII. Permit an employee to electronically sign or acknowledge alterations to such employee's wage and hour records.

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