2023 SESSION

23-0308
04/08

HOUSE BILL ***256***

AN ACT prohibiting cities and towns from discriminating in the use of public facilities.

SPONSORS: Rep. D. McGuire, Merr. 14; Sen. Murphy, Dist 16

COMMITTEE: Judiciary

ANALYSIS

This bill prohibits a municipality from unlawfully discriminating against any individual or group based on their speech or purpose.

- -

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

23-0308
04/08

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT prohibiting cities and towns from discriminating in the use of public facilities.

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

1 New Subdivision; Discrimination in the Use of Municipal Facilities Prohibited. Amend RSA 155-A by inserting after section 39 the following new subdivision:

Discrimination in the Use of Municipal Facilities Prohibited

155-A:39 Discrimination in the Use of Municipal Facilities Prohibited.

I. No municipality shall unlawfully discriminate against any individual or group in the use of its municipal facilities on the basis of the individual's or group's speech or purpose.

II. In this section:

(a) "Municipal facilities" means any place of public accommodation, including any street, highway, sidewalk, walkway, public building or location, park, or any other place or structure to which the general public is regularly, normally, or customarily permitted or invited.

(b) "Municipality" means a city or town.

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

REGULAR CALENDAR

January 30, 2023

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Judiciary to which was referred HB 256,

AN ACT prohibiting cities and towns from discriminating in the use of public facilities. Having considered the same, report the same with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Marjorie Smith

FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Judiciary**
Bill Number:	**HB 256**
Title:	**prohibiting cities and towns from discriminating in the use of public facilities.**
Date:	**January 30, 2023**
Consent Calendar:	**REGULAR**
Recommendation:	**INEXPEDIENT TO LEGISLATE**

STATEMENT OF INTENT

The majority strongly supports the intention of the sponsor, to prohibit a municipality from unlawfully discriminating against any individual or group based on their speech or purpose. However, we reluctantly concluded that this bill is not the appropriate tool for accomplishing its stated goal. Appeals and potential resolutions within the local governmental structures, and in the judicial system, that could be best tailored to the specific complaint would be more appropriate. Questions unanswered by the bill included whether this would apply to commercial speech.

Vote 16-4.

Rep. Marjorie Smith
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Judiciary

HB 256, prohibiting cities and towns from discriminating in the use of public facilities. **INEXPEDIENT TO LEGISLATE.**

Rep. Marjorie Smith for Judiciary. The majority strongly supports the intention of the sponsor, to prohibit a municipality from unlawfully discriminating against any individual or group based on their speech or purpose. However, we reluctantly concluded that this bill is not the appropriate tool for accomplishing its stated goal. Appeals and potential resolutions within the local governmental structures, and in the judicial system, that could be best tailored to the specific complaint would be more appropriate. Questions unanswered by the bill included whether this would apply to commercial speech. **Vote 16-4.**

Original: House Clerk
Cc: Committee Bill File

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HB 256

BILL TITLE: **prohibiting cities and towns from discriminating in the use of public facilities.**

DATE: **January 18, 2023**

LOB ROOM: **208-208** **Time Public Hearing Called to Order:** **3:59 pm**

Time Adjourned: **4:31 pm**

Committee Members: Reps. Lynn, Wallace, Kuttab, Andrus, Testerman, Stapleton, Tripp, Greeeson, K.Perez, M. Smith, Horrigan, M.Paige, Devine, Lanza, Manos and Turer.

Bill Sponsors:
Rep. D. McGuire **Sen. Murphy**

TESTIMONY

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

Rep. D. McGuire
- Had issue of discrimination in his town, which prompted the proposal

Rep. Tripp
- Thinks this is local and not state problem

Rep. Lynn
- Asked if okay removing term "unlawfully"
- Yes

Respectfully submitted,

Rep. Katelyn Kuttab, Clerk

House Remote Testify

Judiciary Committee Testify List for Bill HB256 on 2023-01-18

Support: 5 Oppose: 1 Neutral: 0 Total to Testify: 0

Export to Excel

Name	City, State Email Address	Title	Representing	Position	Testifying	Non-Germane	S
Murphy, Keith	Manchester, NH Keith.Murphy@leg.state.nh.us	An Elected Official	Myself	Support	No	No	
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Support	No	No	
Holstein, Susanne	Bedford, NH srholstein@comcast.net	A Member of the Public	Myself	Oppose	No	No	
Smith, Julie	Nashua, NH cantdog@comcast.net	A Member of the Public	Myself	Support	No	No	
Liberman, Sheryl	Merrimack, NH saml54@comcast.net	A Member of the Public	Myself	Support	No	No	
Hackmann, Kent	Andover, NH hackmann@uidaho.edu	A Member of the Public	Myself	Support	No	No	

Daniel Richardson

We have seen non-overt discrimination against individuals and groups use of municipal facilities on the basis of speech or purpose when perceived as hostile to party in power.

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB 256

BILL TITLE: prohibiting cities and towns from discriminating in the use of public facilities.

DATE: January 30, 2023

LOB ROOM: 206-208

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. Lynn	Seconded by Rep. Wallace	AM Vote: 15-5

Amendment # 2023-0120h

Moved by Rep. Lynn	Seconded by Rep. Wallace	Vote: 7-13

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. M. Smith	Seconded by Rep. Tripp	Vote: 16-4

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Katelyn Kuttab, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/10/2023 9:53:34 AM
Roll Call Committee Registers Report

2023 SESSION

Judiciary

Bill #: ~~HB305~~ HB256 Motion: Adoption of Amendment AM #: 2023-0130h Exec Session Date: 30Jan23

Members	YEAS	Nays	NV
Lynn, Bob J. Chairman	✓		
Wallace, Scott Vice Chairman	✓		
Alexander, Joe H.	✓		
Andrus, Louise	✓		
Testerman, Dave	✓		
Stapleton, Walter A.		✓	
Tripp, Richard P.		✓	
Greeson, Jeffrey	✓		
Kuttab, Katelyn Clerk	✓		
~~Perez, Kristine~~ Seidel, Sheila	✓		
Smith, Marjorie K.	✓		
Horrigan, Timothy O.		✓	
DiLorenzo, Charlotte I.	✓		
~~Kenney, Cam E.~~ Schultz, Kristina	✓		
~~Paige, Mark~~ Rung, Rosemarie		✓	
McBeath, Rebecca Susan	✓		
Devine, Shelley	✓		
Lanza, Judi	✓		
Manos, Zoe R		✓	
Turer, Eric S	✓		
TOTAL VOTE:	15	5	

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/10/2023 9:53:34 AM
Roll Call Committee Registers Report

2023 SESSION

Judiciary

Bill #: HB 256 Motion: OTP/A AM #: — Exec Session Date: 30Jan23

Members	YEAS	Nays	NV
Lynn, Bob J. Chairman	✓		
Wallace, Scott Vice Chairman	✓		
Alexander, Joe H.	✓		
Andrus, Louise		✓	
Testerman, Dave	✓		
Stapleton, Walter A.	✓		
Tripp, Richard P.		✓	
Greeson, Jeffrey		✓	
Kuttab, Katelyn Clerk	✓		
~~Perez, Kristine~~ Seidel, Sheila	✓		
Smith, Marjorie K.		✓	
Horrigan, Timothy O.		✓	
DiLorenzo, Charlotte I.		✓	
~~Kenney, Cam E.~~ Schultz, Kristina		✓	
~~Paige, Mark~~ Rung, Rosemarie		✓	
McBeath, Rebecca Susan		✓	
Devine, Shelley		✓	
Lanza, Judi		✓	
Manos, Zoe R		✓	
Turer, Eric S		✓	
TOTAL VOTE:	7	13	

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/10/2023 9:53:34 AM
Roll Call Committee Registers Report

2023 SESSION

Judiciary

Bill #: HB256 Motion: ITL AM #: — Exec Session Date: 30Jan23

Members	YEAS	Nays	NV
Lynn, Bob J. Chairman		✓	
Wallace, Scott Vice Chairman		✓	
Alexander, Joe H.	✓		
Andrus, Louise	✓		
Testerman, Dave	✓		
Stapleton, Walter A.	✓		
Tripp, Richard P.	✓		
Greeson, Jeffrey	✓		
Kuttab, Katelyn Clerk		✓	
~~Perez, Kristine~~ Seidel, Sheila		✓	
Smith, Marjorie K.	✓		
Horrigan, Timothy O.	✓		
DiLorenzo, Charlotte I.	✓		
~~Kenney, Cam E.~~ Schultz, Kristina	✓		
~~Paige, Mark~~ Rung, Rosemarie	✓		
McBeath, Rebecca Susan	✓		
Devine, Shelley	✓		
Lanza, Judi	✓		
Manos, Zoe R	✓		
Turer, Eric S	✓		
TOTAL VOTE:	16	4	—