

Senate Judiciary Committee

Pete Mulvey 271-4063

HB 514-FN, allowing private persons to sue for violations of election laws.

Hearing Date: April 29, 2025

Time Opened: 1:04 P.M.

Time Closed: 1:27 P.M.

Members of the Committee Present: Senators Gannon, McConkey, Altschiller and Reardon

Members of the Committee Absent : Senator Abbas

Bill Analysis: This bill allows for private parties to sue the state for violations of RSA 659.

Sponsors:

Rep. Berry

Rep. Alexander Jr.

Rep. Giasson

Rep. Mazur

Rep. Reinfurt

Rep. Seidel

Sen. Murphy

Who supports the bill: 21 individuals supported HB 514-FN. Contact peter.mulvey@gc.nh.gov for further details.

Who opposes the bill: 190 individuals opposed HB 514-FN. Contact peter.mulvey@gc.nh.gov for further details.

Who is neutral on the bill: N/A

Summary of testimony:

Representative Ross Berry

Hillsborough – District 44

- HB 514-FN enabled private lawsuits for violations of election law by the state or its subdivisions.
- RSA 659 governs election procedure. Rep. Berry noted that it is one of the longest sections of New Hampshire election law, and contains language related to electioneering, among other things.
- The Attorney General is identified as the party to bring cases subject to RSA 659. That has been interpreted as meaning only the AG can bring such suits.

- HB 514-FN retains the current procedure, which means that the Department of Justice must field complaints and provide a response within five business days.
- Rep. Berry clarified that if HB 514 became law, and a claim were made within 15 days of an election, an individual could go straight to the superior courts.
- HB 514-FN maintained qualified immunity for election officials, and limited attorney fees so there wasn't incentive to be litigious over election law.
- Sen. Gannon noted that the bill required the AG to investigate within five days – if an investigation was turned over to the plaintiff, Sen. Gannon suspected that personal information would need to be redacted.
 - Rep. Berry said he did not recognize any language which would provide personal information.
- Sen. Gannon said he was concerned about the AG distributing private information in their reports and preferred discretion with the AG as it stood currently.
 - Rep. Berry countered that the AGs discretion was the very issue at hand and elaborated that it was strange that if the AG said no, that was the end of a case.
- Sen. Gannon asked if Rep. Berry was aware of the limitations of the AGs office, in that it could take months to conduct and finish an investigation, let alone within five days.
 - Rep. Berry said that elections had a definitive point of action. That was the reason why redress through the courts was necessary. There isn't time for a six-month investigation, therefore, you should be enabled to directly petition the court.
 - Rep. Berry referred to a case where public employees were defendants in an electioneering proceeding. According to Rep. Berry, the litigants admitted to liability on behalf of the defendants, and maintained that the plaintiffs couldn't bring suit regardless, due to standing. HB 514 was intended to address such a scenario.
- Sen. Gannon asked if Rep. Berry was ultimately concerned with standing.
 - Rep. Berry said he was trying to create standing with HB 514 without opening the flood gates.

Representative Timothy Horrigan

Strafford – District 10

- Rep. Horrigan said the idea behind HB 514-FN was unwise and would likely open the floodgates of litigation.
- The Department of Justice is very responsive toward claims of election law violations, and the ballot law commission existed to analyze peculiarities with ballots.
- Rep. Horrigan maintained that the time frames provided in HB 514 were strict, and that the Department of Justice was under equipped.
- The definition for 'person' on line 10 of the first page of the bill included political subdivisions, which was dubious according to Rep. Horrigan.
- Rep. Horrigan speculated that language capping attorney's fees may be unconstitutional.
- The committee was urged to find the bill inexpedient to legislate.

Sarah Burke Cohen

New Hampshire Municipal Association

- The New Hampshire Municipal Association opposed HB 514 because of the level of ambiguity surrounding the bill.
- Under HB 514, a private right of action may be brought against municipalities, and or by municipalities, against the state, which was against the norm according to Ms. Cohen.
- The language surrounding attorney's fees violated contract law.
- HB 514 would open the floodgates to litigious complaints. Ms. Cohen maintained that the AG's Office acted as a fair gatekeeper.

Representative Henry Giasson

Hillsborough – District 29

- Rep. Giasson supported the legislation.
- Rep. Giasson referred to an instance of what he considered to be election interference in the town of Goffstown.
- If electioneering is determined, there should be repercussions for the public body interfering with the public election.

Kaylie Efstratiou

Public Policy Fellow, Open Democracy

- Ms. Efstratiou opposed HB 514-FN.
- The AG's office is better equipped to govern these cases than the Superior Courts.
- Opening the door up to citizens' discretion would invite politicized lawsuits, ultimately wasting taxpayer funds and time.
- Town clerks, poll workers, and volunteers faced with the risk of legal liability will exacerbate administrative strain and staffing shortages.
- Those who do serve will act cautiously out of self-preservation rather than focus on the election process itself and serving the voters.
- HB 514-FN undermined voter confidence and diverted resources from voter outreach according to Ms. Efstratiou.
- Conferring with the AG's office is advised by Open Democracy before any further action is taken by the Committee.

Kate Hill

Moderator, Dover

- HB 514-FN would open election volunteers and officials to lawsuits according to Ms.Hill.
- Ms. Hill had served within local elections for 15 years and worked with a team of volunteers who put a lot of time and energy into staying well educated on election laws.
- In every election there was a significant amount of misinformation, sometimes spread maliciously, sometimes spread naturally.

- Election workers were frequently questioned or accused of misconduct. A misunderstanding potentially opening volunteers and public workers to lawsuits would change the future of people serving on the election committee.
- Sen. McConkey asked Rep. Giasson to return and to elaborate on the instances he referred to in Goffstown.
 - Rep. Giasson said that a certain school district sent out a mailer to students to have them ask their parents which candidates would best fund the district.
 - Rep. Giasson referred to an instance where an elected official's info was released following a right to know request to a library.
 - Rep. Giasson referred to a partisan survey from the Goffstown library which he believed interfered with the election.

PM

Date Hearing Report completed: May 2, 2025