2022 SESSION

22-2377
12/10

HOUSE BILL ***1161-FN-LOCAL***

AN ACT relative to ethics obligations of elected local and county officials.

SPONSORS: Rep. Callum, Sull. 6; Rep. Steven Smith, Sull. 11; Rep. Stapleton, Sull. 5; Rep. Baxter, Rock. 20

COMMITTEE: Municipal and County Government

ANALYSIS

This bill prohibits any member of a governing body in the state from having an interest in any business or transaction that is in substantial conflict with the proper discharge of his or her duties in the public interest. This bill also requires the member abstain from any vote that may create a conflict.

- -

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 1161-FN-LOCAL - AS INTRODUCED

22-2377
12/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to ethics obligations of elected local and county officials.

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

1 New Subdivision; Ethics Obligations. Amend RSA 652 by inserting after section 27 the following new subdivision:

Ethics Obligations

652:28 Prohibited Conduct.

I. No member of any local or county governing body, as defined in RSA 21:48, elected under this title, shall have any interest, financial or otherwise, direct or indirect, in any business or transaction, or incur any obligation of any nature, that is in substantial conflict with the proper discharge of his or her duties as prescribed in the laws of this state.

II. No member of any governing body, elected under this title, shall knowingly disclose to any other person, confidential information acquired by him or her in the course of his or her official duties or use any such information for the purpose of monetary gain.

652:29 Disclosure Required. An elected member shall abstain from participating in a vote on any matter if he or she has a known conflict. The member shall notify the presiding officer before the commencement of the vote and shall be excused from voting on the matter.

652:30 Ethics Policy. All governing bodies shall develop an ethics policy and require voting members to sign and adhere to the policy as they take their oath of office. Such policies shall be determined and enacted by the governing body in accordance with its normal procedures for passage of resolutions and ordinances.

652:31 Penalties. No person shall induce or seek to induce any member of any governing body to violate any provision of this title. Any person who knowingly violates any provision of the ethics policy adopted by their governing body shall be subject to removal by the voters and shall be guilty of a misdemeanor.

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

LBA
22-2377
10/28/21

HB 1161-FN-LOCAL- FISCAL NOTE
AS INTRODUCED

AN ACT relative to ethics obligations of elected local and county officials.

FISCAL IMPACT: [X] State [X] County [ ] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**
Appropriation	$0	$0	$0	$0
Revenue	$0	$0	$0	$0
Expenditures	$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	[X] General	[ ] Education	[ ] Highway	[ ] Other

COUNTY:

Revenue	$0	$0	$0	$0
Expenditures	$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill contains penalties that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Council	FY 2022	FY 2023
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Misdemeanor	$300/Case	$300/Case
Assigned Counsel – Misdemeanor	$60/Hour up to $1,400	$60/Hour up to $1,400
It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. Historically, approximately 85% of the indigent defense caseload has been handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%). Beginning in March of 2021, the public defender program has had to close intake to new cases due to excessive caseloads. Due to these closures, the contract and assigned counsel program have had to absorb significantly more cases. The system is experiencing significant delays in appointing counsel and the costs of representation have increased due to travel time and multiple appointments.		

This bill contains penalties that will have an indeterminable impact on the Judicial Branch system. There is no method to determine how many charges would be brought as a result of the

changes contained in this bill to determine the fiscal impact on expenditures. In the past the Judicial Branch has used averaged caseload data based on time studies to estimate the fiscal impact of proposed legislation. The per case data on costs for routine criminal cases currently available to the Judicial Branch are based on studies of judicial and clerical weighted caseload times for processing average routine criminal cases that are more than fifteen years old so the data does not have current validity. A new case study is being conducted and updated estimates will be available in the future.

Many offenses are prosecuted by local and county prosecutors. When the Department of Justice has investigative and prosecutorial responsibility or is involved in an appeal, the Department may be able to absorb the cost within its existing budget. However, if the Department needs to prosecute significantly more cases or handle more appeals, then costs will increase by an indeterminable amount.

It is assumed the fiscal impact would not occur until FY 2023.

AGENCIES CONTACTED:

Judicial Branch, Departments of Justice, Judicial Council, and New Hampshire Association of Counties