

SB 213-FN - FINAL VERSION

5Jun2025... 2461h
5Jun2025... 2688h
06/26/2025 2827CofC
06/26/2025 2925EBA

2025 SESSION

25-1059
08/02

SENATE BILL ***213-FN***

AN ACT relative to electioneering by public employees and relative to absentee voting.

SPONSORS: Sen. Gray, Dist 6

COMMITTEE: Election Law and Municipal Affairs

AMENDED ANALYSIS

This bill:

I. Defines electioneering in relation to public employees.

II. Requires the presentation of proof of identity, citizenship, age, and domicile when applying for an absentee ballot.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to electioneering by public employees and relative to absentee voting.

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

1 1 Electioneering by Public Employees. RSA 659:44-a is repealed and reenacted to read as follows:

2 659:44-a Electioneering by Public Employees.

3 I. No public employee shall electioneer while in the performance of his or her official duties. For
4 purposes of this section, "public employee" shall have the same meaning as in RSA 273-A:1, IX; except
5 that, notwithstanding RSA 273-A:1, IX(b), a person appointed to office by the chief executive or legislative
6 body of the public employer shall be included in the definition of public employee.

7 II. No public employee shall use any government property or equipment, including, but not limited
8 to, telephones, facsimile machines, vehicles, and computers, for electioneering.

9 III. For the purposes of this section, "electioneer" means to act in any way designed to influence
10 the vote of a voter on any question or office, including but not limited to:

11 (a) Distributing or displaying campaign materials for a campaign during an officially declared
12 election period in an unbiased manner.

13 (b) Making public statements in favor of or against any candidate, political party or warrant
14 article.

15 (c) Organizing or conducting surveys, forums, or events that are expressly or primarily
16 political.

17 (d) Using official authority or influence to interfere with or affect the vote of a voter.

18 IV. Nothing in this section shall prohibit:

19 (a) Lawful participation by candidates, political parties, or private groups in public parades,
20 fairs, festivals, or similar events, including the display of campaign materials or the solicitation of voter
21 support, provided such participation is conducted in accordance with applicable laws and regulations and
22 does not intentionally favor one candidate, party, or measure over another.

23 (b) The use of public spaces or facilities by private individuals, groups, or organizations for
24 lawful political activities, provided such use is not facilitated or promoted by public employees beyond
25 standard administrative support necessary for access and use of the space and follows any relevant
26 ordinance or law where applicable.

27 (c) Public employees engaging in strictly neutral voter registration drives or activities limited
28 to general election awareness, such as announcing election dates or polling locations, without any
29 reference to or discussion of candidates, parties, or measures, and provided such activities are authorized
30 by law.

(d) Public employees providing factual information derived directly from official filing forms or other legally required public documents regarding candidates who have officially filed for office, provided such information is presented in an impartial and neutral manner without additional commentary, analysis, or inference.

(e) Public universities, colleges, or institutions of higher education conducting public opinion polls or surveys.

(f) Public employees who are appointed to office by the chief executive or governing body of the public employer from providing factual information in response to requests from the public concerning their official function.

V. Any person who violates this section shall be guilty of a misdemeanor.

2 Absentee Voting; Application Forms. Amend RSA 657:4 to read as follows:

657:4 ***Application Form*** [Forms].

I. Prior to any state election, the secretary of state shall prepare the appropriate application forms for absentee ballots worded in substantially the following form. The secretary of state shall insert the names of all parties qualified as set forth in RSA 652:11 in the list of parties on the application form. The secretary of state shall prepare the application forms in such quantity as he or she deems necessary:

~~[Absence (Excluding Absence Due to Residence Outside the United States), Religious Observance, and Disability;~~

~~I hereby declare that]~~ ***My Current Registration Status*** (check one):

_____ I am a duly qualified voter who is currently registered to vote in this town/*city* ward (***Requires proof of identity***).

_____ ***I am registered in another New Hampshire town/city ward but am not currently registered to vote in this town/city ward where I am currently domiciled (Requires proof of identity and domicile). The town/city ward where I am registered is _____.***

_____ ***I am not currently registered to vote in any New Hampshire town/city ward and am and will be absent from the town/city where I am domiciled [and will be] until after the next election, or I am unable to register in person due to a disability, and request that the forms necessary for absentee voter registration be sent to me with the absentee ballot (Requires proof of identity, citizenship, age, and domicile).***

How I qualify to vote by absentee ballot (check one):

I ~~[will be entitled]~~ ***qualify*** to vote by absentee ballot because (check one):

_____ I plan to be absent on the day of the election from the city, town, or unincorporated place where I am domiciled.

_____ I am confined in a penal institution for a misdemeanor or while awaiting trial.

_____ I am requesting a ballot for the presidential primary election and I may be absent on the day of the election from the city, town, or unincorporated place where I am domiciled, but the date of the election has not been announced. I understand that I may only make such a request 14 days after the filing period for candidates has closed, and that if I will not be absent on the date of the election I am not eligible to vote by absentee ballot.

_____ I cannot appear in public on election day because of observance of a religious commitment.

_____ I am unable to vote in person due to a disability.

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____ I cannot appear at ***my polling place*** any time during polling hours [~~at my polling place~~] because of an employment obligation. For the purposes of this application, the term "employment" shall include the care of children and infirm adults, with or without compensation.

For use only on the Monday immediately prior to the election: I cannot appear at my polling place on election day ***due to hazardous travel conditions*** because the National Weather Service has issued a winter storm warning, blizzard warning, or ice storm warning for election day applicable to my city, town, or unincorporated place and either (check one):

____ [~~I am elderly or infirm or I have a physical disability, and~~] / would otherwise vote in person but I have concerns for my safety traveling in the storm.

____ I anticipate that school, child care, or adult care will be canceled, and would otherwise vote in person but will need to care for children or infirm adults.

Any person who votes or attempts to vote using an absentee ballot who is not entitled to vote by absentee ballot shall be guilty of a misdemeanor. RSA 657:24.

I am requesting an official absentee ballot for the following election (check one):

____ Presidential Primary to be held on _____
(MM/DD/YYYY)

(The date may appear as blank when the date is not known.)

____ State Primary to be held on _____
(MM/DD/YYYY)

____ General Election

For primary elections, I am a member of or I am now declaring my affiliation with the (check one):

____ Republican Party

____ Democratic Party

____ (name of any party determined by the secretary of state to have achieved official status under RSA 652:11)

and am requesting a ballot for that party's primary.

Please print:

Applicant's Name:

(Last) (First) (Middle) (Sr., Jr., II., III)

Applicant's Voting Domicile (home address):

(Street Number) (Street Name) (Apt/Unit) (City/Town) (Ward) (Zip Code)

Mail the ballot to me at this address (if different than the home address):

(Street Number) (Street Name) (Apt/Unit) (City/Town) (Ward) (Zip Code)

Applicant's Phone Number : _____

Applicant's Email Address : _____

The identification number on the applicant's government issued identification and the state from which the identification was issued: _____

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1 Applicant's Signature: _____

2 Date Signed: _____

3 (MM/DD/YYYY)

4 I attest that I assisted the applicant in executing this form because [~~he or she~~] ***the applicant*** has a
5 disability.

6 Signature _____ Print Name _____

7 If your absentee ballot application or affidavit envelope has the printed name and signature of a person
8 who assisted you with voting, your signature will not be compared to your signature on the absentee ballot
9 affidavit to verify your identity. Otherwise, if your signatures do not appear to be made by the same
10 person, your absentee ballot may not be counted.

11 The applicant must sign this form to receive an absentee ballot. Any person who witnesses and
12 assists a voter with a disability in executing this form shall print and sign his or her name in the space
13 provided on the application form. The moderator will not compare the voter's signature on the application
14 with the signature on the absentee ballot affidavit when a person assisting the voter has signed the
15 statement on the absentee ballot application or affidavit envelope that assistance was provided.

16 II.(a) Any person, other than the city or town clerk or the secretary of state, that publishes, mails,
17 or distributes in any manner any written communication that contains a form or post card which a
18 reasonable person would consider as intended to be used by the recipient of the communication to submit
19 a request for an absentee ballot shall identify who is publishing, mailing, or distributing the
20 communication, and attach a copy of the form prepared by the secretary of state pursuant to paragraph I
21 of this section to the communication or include in the communication a complete facsimile of the form
22 prepared by the secretary of state pursuant to paragraph I of this section.

23 (b) Any person that publishes, mails, or distributes forms as described in subparagraph (a) as
24 part of any communication that is made for the purpose of promoting the success or defeat of a candidate
25 or candidates or measure or measures, as defined in RSA 664:2, shall be identified in the same manner
26 as political advertising under RSA 664:14.

27 (c) Any person that violates this paragraph shall be subject to a civil penalty not to exceed
28 \$1,000, to be imposed in the manner set forth in RSA 659:34, III-V.

29 III. The federal official post card form shall constitute the form made available by the secretary of
30 state pursuant to RSA 654:20 for absentee ballot applications by UOCAVA voters.

31 3 Absentee Registration Affidavit. Amend RSA 654:17 to read as follows:

32 654:17 Absentee Registration Affidavit.

33 I. The absentee registration affidavit shall be prepared by the secretary of state ***for individuals***
34 ***registering to vote for the first time in New Hampshire*** and shall be in substantially the following form:

35 Affidavit (Absence from town)

36 I, _____ do hereby swear or affirm, under the penalties for voting fraud set forth below,
37 the following:

38 1) That ***I am a citizen of the United States***, my legal domicile is in the town/***city ward*** of _____,
39 New Hampshire, I will be of the age of 18 years or over on election day and am entitled to vote in the

election to be held in said town/*city ward* on _____, _____ (date), except for the fact that my name does not appear on the checklist to be used in said town at such election;

2) That I do not intend to be present within [said] *the town/city ward* at such time prior to said election as shall enable me personally to appear before the supervisors of the checklist of said town/*city ward* in their regular sessions for the correction of the checklist for said election;

3) That I am temporarily residing in _____ (city and state or city, province, and country);

4) That I hereby enclose [~~one of~~] the following [as] *required* proof of identity, *citizenship*, *age* and domicile:

(a) *A copy of my birth certificate, United States passport or naturalization papers; and*

(b) A copy of a current and valid New Hampshire driver's license or an armed services identification or other photo identification issued by the United States government that shows my name and address; or

[(b)] (c) A copy of a current and valid photo identification and a copy of a current utility bill, bank statement, government check, paycheck, other government document that shows my name and address, or a letter from the administrator of a nursing home or similar facility affirming that I am a resident of that facility that was provided to me at my request pursuant to the administrator's duty to provide such a letter upon my request;

5) That I acknowledge that if I do not provide a copy of proof of identity, *citizenship*, *age* and domicile as required by section 4) above, this application [may] *shall* not be approved; and

6) That I hereby make application for the addition of my name to the checklist of said town/*city ward* to be used at said election.

Signature of Applicant

Date

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

II. The absentee registration affidavit shall be prepared by the secretary of state for individuals who have a physical disability:

[Affidavit (Physical Disability)]

I, _____ do hereby swear or affirm, under the penalties for voting fraud set forth below, the following:

1) That *I am a citizen of the United States*, my legal domicile is in the town/*city ward* of _____, New Hampshire, I will be of the age of 18 years or over on election day, and am entitled to vote in the election to be held in said town/*city ward* on _____, ____ (date), except for the fact that my name does not appear on the checklist to be used in said town at such election;

2) That I am unable by reason of physical disability personally to appear before the supervisors of the checklist of said town in their regular sessions for the correction of the checklist for said election;

3) That I hereby enclose [~~one of~~] the following [as] *required* proof of identity, *citizenship*, *age* and domicile:

(a) *A copy of my birth certificate, United States passport or naturalization papers; and*

(b) A copy of a current and valid New Hampshire driver's license or an armed services identification or other photo identification issued by the United States government that shows my name and address; or

[(b)](c) A copy of a current and valid photo identification and a copy of a current utility bill, bank statement, government check, paycheck, other government document that shows my name and address, or a letter from the administrator of a nursing home or similar facility affirming that I am a resident of that facility that was provided to me at my request pursuant to the administrator's duty to provide such a letter upon my request;

4) That I acknowledge that if I do not provide a copy of proof of identity, *citizenship, age*, and domicile as required by section 3) above, this application [may] *shall* not be approved; and

5) That I hereby make application for the addition of my name to the checklist of said town/*city ward* to be used at said election.

Signature of Applicant

Date

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

[H:] *///*. There shall be printed below each of the foregoing affidavits the following affirmation:

Affirmation

I, _____, the undersigned witness, do hereby swear or affirm, under the penalties for voting fraud set forth below, that on the _____ day of _____, ____ (date), the above named, _____, having satisfied me as to his or her identity, signed the foregoing affidavit in my presence, and did before me swear to (or affirm) the truth of the statements therein contained.

Signature of Witness

Notary Public/Justice of the Peace

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

4 Effective Date.

I. Section 1 of this act shall take place upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

**SB 213-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to electioneering by public employees and relative to absentee voting.

FISCAL IMPACT:

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund</i>	None			
Expenditures*	Indeterminable			
<i>Funding Source</i>	General Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

Estimated Political Subdivision Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	Indeterminable			
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	Indeterminable			

METHODOLOGY:

This bill adds, deletes, or modifies a criminal penalty, or changes statute to which there is a penalty for violation. Therefore, this bill may have an impact on the judicial and correctional systems, which could affect prosecution, incarceration, probation, and parole costs, for the state, as well as county and local governments. A summary of such costs can be found at: https://gencourt.state.nh.us/lba/Budget/Fiscal_Notes/JudicialCorrectionalCosts.pdf

This could possibly result in an increase in civil cases in the Superior Court, however, there is no way to predict how many such actions would occur so any such increase is indeterminable. The Judicial Branch has provided average cost information for civil cases in the Superior Court:

NH Judicial Branch Average Civil Case Estimates

Judicial Branch Average Cost	FY 2025	FY 2026
Superior Court	\$1,430	\$1,473

Complex Civil Case		
Superior Court Routine Civil Case	\$535	\$552

Common Civil Case Fees

Superior Court Fees	As of 2/12/2020
Original Entry Fee	\$280
Third-Party Claim	\$280
Motion to Reopen	\$160

The Department of State indicates that this bill will require additional training however it will not have a fiscal impact on the Department.

AGENCIES CONTACTED:

Department of State, Judicial Branch, Judicial Council, Department of Justice, Department of Corrections, New Hampshire Association of Counties, and New Hampshire Municipal Association