

HB 66-FN - AS AMENDED BY THE HOUSE

20Feb2025... 0110h

2025 SESSION

25-0050

11/05

HOUSE BILL

66-FN

AN ACT relative to material subject to disclosure under the right to know law.

SPONSORS: Rep. Lynn, Rock. 17; Rep. Edwards, Rock. 31; Rep. Kuttab, Rock. 17; Rep. M. Smith, Straf. 10

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill describes who may invoke the right to know law and in what manner, includes preliminary drafts of documents that are distributed to a quorum of a body among the materials that must be disclosed, allows certain persons to request documents in either paper or electronic form, and modifies the manner in which the right to know ombudsman's ruling may be appealed to superior court.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to material subject to disclosure under the right to know law.

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

1 1 Definition of Governmental Proceedings. Amend RSA 91-A:1-a, II to read as follows:

2 II. "Governmental proceedings" means the transaction of any functions affecting any ~~or all~~
3 ~~citizens of the state~~ **person** by a public body.

4 2 Minutes and Records Available for Public Inspection; Electronic Record Requests. Amend
5 RSA 91-A:4, I to read as follows:

6 I. ~~Every citizen~~ **Any person** during the regular or business hours of all public bodies or
7 agencies, and on the regular business premises of such public bodies or agencies, has the right to
8 inspect all governmental records in the possession, custody, or control of such public bodies or
9 agencies, including minutes of meetings of the public bodies, and to copy and make memoranda or
10 abstracts of the records or minutes so inspected, except as otherwise prohibited by statute or RSA
11 91-A:5. In this section, "to copy" means the reproduction of original records by whatever method,
12 including, but not limited to photography, photostatic copy, printing, or electronic or tape recording.

13 3 Access to Governmental Records and Meetings; Records Available for Public Inspection;
14 Preliminary Drafts. Amend RSA 91-A:4, II to read as follows:

15 II. After the completion of a meeting of a public body, ~~every citizen~~ **any person**, during the
16 regular or business hours of such public body, and on the regular business premises of such public
17 body, has the right to inspect all notes, ***preliminary drafts circulated to a quorum or a***
18 ***majority of the public body***, materials, tapes, or other sources used for compiling the minutes of
19 such meetings, and to make memoranda or abstracts or to copy such notes, materials, tapes, or
20 sources inspected, except as otherwise prohibited by statute or RSA 91-A:5.

21 4 New Paragraph; Access to Governmental Records and Meetings; Minutes and Records
22 Available for Public Inspection. Amend RSA 91-A:4 by inserting after paragraph V the following
23 new paragraph:

24 V-a.(a) Any person who is domiciled in New Hampshire, owns property in New Hampshire,
25 pays New Hampshire taxes, maintains a place of business or is registered to do business in New
26 Hampshire, or is a member of the media regardless of where located may request governmental
27 records electronically or by mail without physically appearing at the regular business premises of
28 public bodies or agencies to request governmental records.

29 (b) At the election of such person requesting the records, the public body or agency shall
30 provide such records electronically or by mail without requiring the person's physical appearance at
31 its business premises to receive delivery of the records. If the person requests that the records be

HB 66-FN - AS AMENDED BY THE HOUSE

- Page 2 -

1 provided by mail, the public body or agency may charge the person the cost of postage. No charge
2 shall be made for records delivered electronically. This subparagraph does not preclude a public
3 body from imposing charges authorized under paragraph VIII.

4 (c) The public body or agency shall not be required to provide records electronically in a
5 format other than the format under which the public body or agency regularly maintains such
6 records, unless the application, program, or format in which the records are stored or accessed is
7 capable of producing the records into a standard or common file format, in which case the public
8 body or agency shall provide the records in the standard or common file format requested.

9 (d) The public body or agency shall not be required to provide records electronically if it
10 lacks the technological capability to do so, if doing so would be unduly burdensome, or if doing so
11 would compromise the security of its record-keeping system.

12 5 Appeals and Enforcement; Filing Fee or Surcharge. Amend RSA 91-A:7-c, I to read as follows:

13 I. Any party may appeal the ombudsman's final ruling to the superior court by filing a notice
14 of appeal in superior court no more than 30 calendar days after the ombudsman's ruling is issued.
15 The ombudsman's ruling shall be attached to the document initiating the appeal, admitted as a full
16 exhibit by the superior court, considered by the judge during deliberations, and specifically
17 addressed in the court's written order. ~~[Citizen-initiated]~~ Appeals shall have no filing fee or
18 surcharge. The public body or public agency shall pay the sheriff's service costs if the public body or
19 public agency, or its attorney, declines to accept service. Nothing in this section shall prevent a
20 superior court from staying an ombudsman's decision pending appeal to the superior court.

21 6 Effective Date. This act shall take effect 60 days after its passage.

HB 66-FN- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2025-0110h)

AN ACT relative to material subject to disclosure under the right to know law.

FISCAL IMPACT: This bill does not provide funding.

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	\$0
<i>Revenue Fund(s)</i>	General Fund			
Expenditures*	\$0	Indeterminable Increase \$0 to \$100,000	Indeterminable Increase \$0 to \$100,000	\$0
<i>Funding Source(s)</i>	General Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</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	\$0	Indeterminable	Indeterminable	\$0
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	\$0	Indeterminable	Indeterminable	\$0

METHODOLOGY:

This bill expands New Hampshire's "Right to Know" law (RSA 91-A) by allowing any person who is domiciled in New Hampshire, owns property in New Hampshire, pays New Hampshire taxes, maintains a place of business or is registered to do business in New Hampshire, or is a member of the media regardless of where located, to file requests for public records. It also includes preliminary drafts distributed to a quorum of a public body as documents subject to disclosure and permits requests to be made electronically or by mail. Additionally, the bill modifies the appeal process for Right to Know ombudsman decisions in Superior Court.

The Right-to-Know Ombudsman (RKO) states that it is unknown whether this bill would result in an increase in volume of cases filed with the RKO Office, which would result in higher administrative costs. A \$25 filing fee is expected for each appeal, which may provide some

revenue but will not offset the increased time demands on RKO staff. The RKO office may experience an uptick in caseload, potentially leading to costs of under \$100,000, including one-time and recurring expenses (e.g., paper, ink, postage). However, as the RKO's position is salaried and not hourly, labor costs are unlikely to increase significantly.

The Department of Administrative Services (DAS) states that requiring disclosure of preliminary drafts distributed to a quorum of public bodies is expected to have a negligible fiscal impact.

This bill may also have an indeterminable fiscal impact on counties and municipalities as they are also subject to RSA 91-A laws.

It is assumed the fiscal impact will not occur until FY 2026, with no impact projected for FY 2028, as any associated costs would be accounted for in the Department budgets.

AGENCIES CONTACTED:

Right-to-Know Ombudsman and Department of Administrative Services