



The State Employees' Association Of New Hampshire, Inc.

Service Employees International Union, Local 1984, CTW, CLC

Judiciary Committee
NH House of Representatives
Granite Place – Room 230

February 04, 2026

Good afternoon Mr. Chairman and Honorable Members of the House Judiciary Committee. For the record my name is Richard Gulla, President of the NH State Employees' Association / SEIU Local 1984, and I am honored to be representing over 10,000 hard-working New Hampshire public employees and retirees.

We are the men and women who plow our roads, ensure we have clean water to drink, that our children are safe, and our elderly are cared for. We are your neighbors and friends. We are taxpayers. We are dedicated public servants who have helped build New Hampshire and continue to keep New Hampshire great.

The SEA respectfully urges the Committee to recommend HB 1064-FN AN ACT relative to liability of governmental units as **Inexpedient to Legislate**.

Although presented as a technical update to RSA 507-B and related statutes, this bill would fundamentally reshape governmental liability law in New Hampshire in ways that are harmful to public employees, public employers, and taxpayers.

I. HB 1064 Expands Liability Exposure for Public Employees and Employers

HB 1064 repeals and reenacts RSA 507-B:2, replacing long-standing language with a broader and more plaintiff-friendly standard that significantly expands when governmental units “may be held liable for damages.”

Current law appropriately balances two core interests:

1. Providing compensation to individuals harmed by genuine negligence, and
2. Protecting governmental employees and entities from unlimited civil liability when performing essential public functions.

This balance has been recognized repeatedly by the New Hampshire Supreme Court. See, e.g.:

- *Everitt v. Gen. Elec. Co.*, 156 N.H. 202 (2007) – affirming that RSA 507-B reflects legislative intent to limit governmental liability.
- *Dichiara v. Sanborn Regional Sch. Dist.*, 165 N.H. 694 (2013) – recognizing that discretionary-function immunity protects public decision-making.

- *Huckins v. McSweeney*, 166 N.H. 176 (2014) – reiterating that RSA 507-B establishes specific and intentional limits on municipal liability.

HB 1064 upends this framework by:

- Broadening the circumstances under which governmental units can be sued;
- Reducing long-recognized immunities for discretionary governmental actions; and
- Increasing statutory damages caps by nearly 50 percent.

This represents a major policy shift, not a simple “update.”

II. Mandatory Indemnification Language Is Misleading and Insufficient

Section 4 of HB 1064 amends RSA 31:105 to require political subdivisions to indemnify employees for negligence claims unless the employee acted “wantonly or recklessly.”

On its face, this may appear to protect workers. In reality, it does the opposite.

Under this proposal:

- Individual public employees can be personally named in lawsuits;
- Plaintiffs can avoid indemnification by alleging “reckless” conduct;
- Employees may face years of litigation before indemnification is determined; and
- Municipalities and the State will incur far greater defense costs.

Terms such as “wanton” and “reckless” are subjective legal standards that invite litigation and second-guessing. New Hampshire courts have long recognized the danger of imposing personal liability on public employees acting in good faith within the scope of their duties. See *Bergeron v. City of Manchester*, 140 N.H. 417 (1995).

The practical effect will be to:

- Increase lawsuits against teachers, police officers, social workers, corrections officers, and other public servants;
- Create uncertainty about when indemnification applies; and
- Discourage decisive action in time-sensitive situations.

No public employee should have to wonder whether performing their job will expose them to personal financial risk.



The State Employees' Association Of New Hampshire, Inc.

III. The Bill Undermines Discretionary Function Protections

HB 1064 narrows the existing immunity for discretionary governmental functions found in RSA 507-B:2, II(b).

Discretionary-function immunity exists for a reason: government employees must routinely make judgment calls involving public safety, resource allocation, and policy implementation.

The New Hampshire Supreme Court has consistently upheld these protections as essential to effective governance. See *Merrill v. City of Manchester*, 114 N.H. 722 (1974) and *Huckins v. McSweeney*, supra.

By expanding potential liability for decisions that are inherently discretionary, this bill will cause:

- Risk-averse decision-making;
- Increased bureaucratic delays;
- Overly defensive practices; and
- Reduced willingness to take necessary action in emergencies.

This is precisely why governmental immunity doctrines exist.

IV. HB 1064 Will Increase Costs to Taxpayers and Public Services

The fiscal note attached to this bill makes clear that costs will rise for both the State and political subdivisions.

The New Hampshire Municipal Association has warned that:

- Insurance premiums will increase;
- Legal defense costs will grow; and
- Municipalities may face additional expenses ranging from \$10,000 to \$100,000 or more per year.

These are not hypothetical impacts.

Higher liability exposure inevitably leads to:

- Increased property taxes;
- Higher risk-pool contributions;
- Budget cuts to essential services; and
- Reduced funding for workforce recruitment and retention.

At a time when New Hampshire is already struggling to hire and retain public employees, HB 1064 would divert scarce resources from services into litigation and insurance costs.

V. This Bill Will Worsen Recruitment and Retention Challenges

Public employees already perform difficult, high-stress jobs on behalf of our communities.

HB 1064 sends exactly the wrong message to:

- Child protection workers
- Correctional officers
- Police officers
- Nurses
- Snowplow drivers
- Teachers and school staff

It tells them that even when acting in good faith, they may:

- Be personally sued;
- Have their actions scrutinized years later; and
- Potentially lose indemnification based on subjective allegations.

That is not how New Hampshire attracts qualified, dedicated public servants.

VI. Existing Law Already Provides Adequate Remedies

Importantly, current New Hampshire law already allows injured parties to recover damages for legitimate claims.

RSA 507-B presently provides:

- Clear avenues for compensation;
- Reasonable statutory caps;
- Well-defined exceptions; and
- Balanced protections for governmental employees.



The State Employees' Association Of New Hampshire, Inc.

No evidence has been presented that the existing system is inadequate or unjust.

HB 1064 is therefore a solution in search of a problem and one that would create substantial new problems for public employers and workers alike.

VII. Article 28-a Concerns.

HB 1064 raises serious constitutional issues under Article 28-a of the New Hampshire Constitution, which prohibits the State from imposing new, expanded, or modified responsibilities on municipalities that require additional local expenditures without full state funding. By increasing governmental liability limits and converting employee indemnification under RSA 31:105 from permissive to mandatory, the bill would compel cities and towns to incur new and unavoidable costs, including higher insurance premiums, larger judgments and settlements, and expanded legal defense obligations. These costs are not discretionary; they flow directly from changes in state law. The New Hampshire Supreme Court has consistently held that Article 28-a bars legislation that forces political subdivisions to spend additional funds without reimbursement. See *Claremont School Dist. v. Governor*, 142 N.H. 462 (1997) (Article 28-a prohibits shifting new financial burdens to municipalities); *Opinion of the Justices (Solid Waste Disposal)*, 135 N.H. 543 (1992) (statute imposing new municipal expenses without funding violates Article 28-a); *Town of Nelson v. N.H. Dep't of Transportation*, 146 N.H. 75 (2001) (even indirect or secondary costs can trigger Article 28-a protections). The fiscal note for HB 1064 expressly acknowledges "indeterminable increases in local expenditures," which is precisely the type of unfunded mandate Article 28-a was designed to prevent. For this reason alone, the bill presents a substantial risk of being unconstitutional.

CONCLUSION

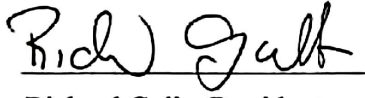
HB 1064 would:

- Expand lawsuits against governmental units and employees;
- Undermine long-standing discretionary-function protections;
- Increase taxpayer costs; and
- Place public employees at greater personal legal risk.

For these reasons, the State Employees' Association of New Hampshire respectfully urges the Committee to vote **HB 1064-FN – Inexpedient to Legislate**.

Thank you for your consideration and for your service to the State of New Hampshire.

Respectfully submitted,

A handwritten signature in black ink that reads "Richard Gulla". The signature is written in a cursive style and is positioned above a horizontal line.

**Richard Gulla, President
State Employees'
Association of NH
SEIU Local 1984**