

Senate Judiciary Committee

Jennifer Horgan 271-7875

HB 566, relative to the discussion and disclosure of minutes from a nonpublic session under the right-to-know law.

Hearing Date: May 11, 2021

Time Opened: 1:29 p.m.

Time Closed: 1:37 p.m.

Members of the Committee Present: Senators Carson, Gannon, French, Whitley and Kahn

Members of the Committee Absent : None

Bill Analysis: This bill allows discussion of disclosure of the minutes of a nonpublic session to occur in nonpublic session, provided the vote on disclosure takes place in public session. The bill also requires that sealed minutes of a nonpublic session related to the acquisition, sale, or lease of real or personal property be released once the transaction closes or the public body decides not to proceed.

Sponsors:

Rep. Yokela

Rep. Yakubovich

Who supports the bill: Representative Yokela; Natch Greyes, New Hampshire Municipal Association; Deborah Sumner; David Saad, RTKNH; Alexandra Mennella; Alvin See; Nicholas Thomas

Who opposes the bill: Barrett Christina, NH School Boards Association

Summary of testimony presented in support:

Representative Yokela

- There are specific reasons why public bodies can go into nonpublic session and keep those minutes private.
- Those minutes are not always gone back to, even when the reasons to keep them nonpublic are no longer applicable.
- This bill encourages bodies to go back and discuss nonpublic meeting minutes, adds the consideration of disclosure of nonpublic minutes as a reason to go into nonpublic, and allows for meeting minutes relative to the sell, lease, or purchase of property to automatically be disclosed after the close of the sale.
- The reason to keep them from the public initially, is so that the state is not put at a disadvantage when making or accepting an offer.

- Senator Kahn shared that he experienced instances where the public body in nonpublic receives authorization to offer up to a certain amount; often the board will negotiate for less than that. Asked if the disclosure of the difference might embarrass a private citizen.
 - Is not sure how it would embarrass a private citizen. Once the sale is closed, there is not legitimate reason for not disclosing it. There is a counterbalance of openness of government and the public's right to know. During a negotiation there is arguably a strong reason to keep that private, so that the negotiations can happen in good faith and the body is not at a disadvantage to other bidders.

Natch Greyes (NH Municipal Association)

- This clarifies that the discussion of previously sealed minutes can occur in nonpublic session.
- This also ensures public bodies can go back to discuss sealed minutes and determine whether it is appropriate to release them.
- The bill also changes the sealing period for real estate transactions.
- There is no reason for the minutes to remain sealed as long as it is an ordinary transaction after the transaction closes.
- The law states currently that minutes can only remain sealed as long as there a reason for them to be sealed.
- If there is a situation where there is some sort of embarrassment that could occur, the board could go back and vote to keep the minutes sealed if necessary.

Summary of testimony presented in opposition:

None

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Date Hearing Report completed: May 19, 2021