

HB 372-FN - AS INTRODUCED

2021 SESSION

21-0284

11/04

HOUSE BILL ***372-FN***

AN ACT relative to enforcement of the elections laws.

SPONSORS: Rep. Abramson, Rock. 37; Rep. Harvey-Bolia, Belk. 4; Rep. Yakubovich, Merr. 24

COMMITTEE: Election Law

ANALYSIS

This bill permits county and municipal attorneys to enforce election laws.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to enforcement of the elections laws.

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

1 1 New Section; County Attorneys; Enforcement of Election Laws. Amend RSA 7 by inserting
2 after section 34-g the following new section:

3 7:34-h Enforcement of the Election Laws.

4 I. Upon receipt of a signed written complaint, or upon his or her own motion, a county
5 attorney may in his or her discretion conduct investigations to determine whether any violation of
6 the election laws has occurred and may prosecute anyone responsible for such a violation. In
7 conducting an investigation under this section the county attorney may enlist the aid of the state
8 police, and other public officers. In the exercise of his or her powers and duties under this section,
9 the county attorney may hold hearings and require the attendance of individuals by the use of
10 subpoena and may require the production of books, documents, records, and other tangible goods by
11 use of subpoena duces tecum. Any testimony required by the county attorney at a hearing which he
12 or she is empowered to hold under this section shall be given under oath. The county attorney shall
13 maintain records of complaints and investigations of alleged violations of the election laws.

14 II.(a) Beginning January 31, 2022, the county attorney shall, at least once during every 6-
15 month period, provide a rolling report to the general court on the status of all complaints of alleged
16 violations of the election laws received. The county attorney shall submit the report to the standing
17 committees of the senate and house of representatives with jurisdiction over election law.

18 (b) The report shall include, but not be limited to the following:

19 (1) A summary of complaints received during the preceding 6 months, or during the
20 period since the previous report if such period is less than 6 months, including the number of
21 complaints categorized by type of complaint and month received.

22 (2) For each complaint investigated, the results of the investigation and a
23 description of actions taken following the investigation.

24 (3) For each complaint not investigated, an explanation of why the complaint was
25 not investigated.

26 (c) The requirements of subparagraph (b)(2) or (b)(3) may be satisfied by including with
27 the report, for the complaint described, a closure letter, settlement agreement, cease and desist
28 order, or complaint filed with a court, or any other official communication.

29 2 Enforcement of Election Laws; Municipal Prosecutors. Amend RSA 41:10-a to read as follows:

30 41:10-a Municipal Prosecutors.

1 **I.** The selectmen of towns or the appropriate appointing authorities are hereby authorized to
2 appoint and compensate one or more qualified members of the New Hampshire bar to serve as
3 municipal prosecutors to represent the state, in place of police officers, in cases involving civil
4 causes, violations and misdemeanors within the jurisdiction of the municipal or district courts except
5 as provided in RSA 502-A:20-a and RSA 502:26-c. Said municipal prosecutors shall serve at the
6 pleasure of the appointing authority. Two or more municipalities may engage the services of a single
7 municipal prosecutor as provided in RSA 53-A. Nothing in this section shall be construed to prohibit
8 the state police from prosecuting any violation or misdemeanor in any district or municipal court in
9 this state.

10 **II.(a)** *Upon receipt of a signed written complaint, or upon his or her own motion, a*
11 *municipal prosecutor may in his or her discretion conduct investigations to determine*
12 *whether any violation of the election laws has occurred and may prosecute anyone*
13 *responsible for such a violation. In conducting an investigation under this section the*
14 *municipal prosecutor may enlist the aid of the state police, and other public officers. In*
15 *the exercise of his or her powers and duties under this section, the municipal prosecutor*
16 *may hold hearings and require the attendance of individuals by the use of subpoena and*
17 *may require the production of books, documents, records, and other tangible goods by use*
18 *of subpoena duces tecum. Any testimony required by the municipal prosecutor at a hearing*
19 *which he or she is empowered to hold under this section shall be given under oath. The*
20 *municipal prosecutor shall maintain records of complaints and investigations of alleged*
21 *violations of the election laws.*

22 **(b)** *Beginning January 31, 2022, the municipal prosecutor shall, at least once*
23 *during every 6-month period, provide a rolling report to the general court on the status of*
24 *all complaints of alleged violations of the election laws received. The municipal*
25 *prosecutor shall submit the report to the standing committees of the senate and house of*
26 *representatives with jurisdiction over election law.*

27 **(1)** *The report shall include, but not be limited to the following:*

28 **(A)** *A summary of complaints received during the preceding 6 months, or*
29 *during the period since the previous report if such period is less than 6 months, including*
30 *the number of complaints categorized by type of complaint and month received.*

31 **(B)** *For each complaint investigated, the results of the investigation and*
32 *a description of actions taken following the investigation.*

33 **(C)** *For each complaint not investigated, an explanation of why the*
34 *complaint was not investigated.*

35 **(c)** *The requirements of subparagraph (b)(2) or (b)(3) may be satisfied by*
36 *including with the report, for the complaint described, a closure letter, settlement*

1 *agreement, cease and desist order, or complaint filed with a court, or any other official*
2 *communication.*

3 3 Enforcement of the Election Laws. Amend RSA 666:8 to read as follows:

4 666:8 Attorney General, *County Attorney, and Municipal Prosecutors*. The attorney
5 general, *county attorneys, and municipal prosecutors* shall be responsible for the enforcement of
6 the election laws as provided in RSA 7:6-c, *RSA 7:34-h, and RSA 41:10-a, respectively*.

7 4 Effective Date. This act shall take effect 60 days after its passage.

**HB 372-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to enforcement of the elections laws.

FISCAL IMPACT: State County Local None

| STATE: | Estimated Increase / (Decrease) | | | |
|------------------------|---|------------------------------------|----------------------------------|--------------------------------|
| | FY 2021 | FY 2022 | FY 2023 | FY 2024 |
| Appropriation | \$0 | \$0 | \$0 | \$0 |
| Revenue | \$0 | \$0 | \$0 | \$0 |
| Expenditures | \$0 | Indeterminable | Indeterminable | Indeterminable |
| Funding Source: | <input checked="" type="checkbox"/> General | <input type="checkbox"/> Education | <input type="checkbox"/> Highway | <input type="checkbox"/> Other |

COUNTY:

| | | | | |
|---------------------|-----|----------------|----------------|----------------|
| Revenue | \$0 | \$0 | \$0 | \$0 |
| Expenditures | \$0 | Indeterminable | Indeterminable | Indeterminable |

LOCAL:

| | | | | |
|---------------------|-----|----------------|----------------|----------------|
| Revenue | \$0 | \$0 | \$0 | \$0 |
| Expenditures | \$0 | Indeterminable | Indeterminable | Indeterminable |

METHODOLOGY:

This bill allows for county attorneys and municipal prosecutors to enforce election laws. The bill requires that beginning January 31, 2022, the county attorneys and municipal prosecutors shall, at least once during every 6-month period, provide a rolling report to the general court on the status of all complaints of alleged violations of the election laws received and any investigations that may have been commenced.

The Department of State indicates there is no impact on the revenue or expenditures of the Department.

The Department of Justice is unable to determine what responsibilities under RSA 7:6-c will be taken on by county or municipal attorneys and what effect that may have on the Department's workload and expenditures. Such activities may include not only civil and criminal enforcement matters, but oversight of regulatory matters. This may include answering questions from the public and election officials, email and phone hotline staffing for year round concerns or questions, guidance publications and training, and poll inspections.

The New Hampshire Association of Counties states county attorney offices may need to hire additional staff to comply with the possible increase in responsibilities and workload associated with additional investigations.

The New Hampshire Municipal Association indicates the costs of investigations and prosecutions is indeterminable and dependent on an unknown number of investigations.

It is assumed this bill would be effective July 1, 2021.

AGENCIES CONTACTED:

Departments of State and Justice, New Hampshire Association of Counties, and New Hampshire Municipal Association