

**HB 685 – FINAL VERSION**

29Jan2014... 0259h  
05/08/14 1636s  
05/08/15 1801s  
4Jun2014... 1950CofC

2014 SESSION

13-1014  
01/09

HOUSE BILL           **685**

AN ACT               relative to state agency communications.

SPONSORS:           Rep. Leishman, Hills 24; Rep. L. Ober, Hills 37

COMMITTEE:         Judiciary

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AMENDED ANALYSIS

This bill clarifies state agency communications with the office of the legislative budget assistant.

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                      Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT                    relative to state agency communications.

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

1            1 Office of Legislative Budget Assistant; General Duties. Amend RSA 14:31, III-VI to read as  
2 follows:

3            III. Both the audit division and the budget division shall conduct such investigations,  
4 analyses, or research into the financial activities and condition or the financial management  
5 procedures, or any specific area thereof, of any department, board, institution, commission, agency,  
6 political subdivision, or entity authorized to expend state funds for the information of the legislature,  
7 as the fiscal committee shall specifically direct. The authority of the legislative budget assistant to  
8 investigate, analyze, or research non-state agencies shall be limited to 5 entities in a 5-year period.  
9 In making any such investigation, analysis, or research, the legislative budget assistant, **and any**  
10 **assistants appointed pursuant to RSA 14:34 and under the direction of the legislative**  
11 **budget assistant**, shall have the power to examine whatever **operations**, accounts or records of, or  
12 property or things of value held by, said department, board, institution, commission, agency, political  
13 subdivision, or entity authorized to expend state funds the ~~[fiscal committee shall deem]~~ **legislative**  
14 **budget assistant deems** useful to said investigation, analysis, or research.

15            **III-a. No department, board, institution, commission, agency, or political**  
16 **subdivision shall assert the attorney-client privilege in response to a request for**  
17 **information or examination of operations, accounts, or records by the legislative budget**  
18 **assistant. The attorney-client privilege shall not be deemed waived by any department,**  
19 **board, institution, commission, agency, or political subdivision that provides attorney-**  
20 **client privileged materials to the legislative budget assistant pursuant to this section.**  
21 **Attorney-client communications obtained from any regulated entities shall not be disclosed**  
22 **to the legislative budget assistant.**

23            IV. All state departments, boards, institutions, commissions, agencies, and political  
24 subdivisions, and other entities authorized to expend state funds, shall be required to furnish to the  
25 legislative budget assistant any information, including confidential **and privileged** information, he  
26 or she may request in the course of carrying out the duties as prescribed by this section, RSA 14:31-  
27 a, and RSA 14:31-b, **including online access to such information in the state's integrated,**

1 **multi-module, information technology system, and any related subsystems**, except that access  
2 to records, files, returns, or information deemed confidential information maintained by the  
3 department of revenue administration shall be controlled solely by the provisions of RSA 21-J:14. If  
4 the legislative budget assistant requires access to confidential **or privileged** information, the state  
5 entity shall furnish the information~~[-except for work papers as described in RSA 91-A:4, V].~~ In such  
6 situations, the legislative budget assistant shall be subject to the same restrictions and penalties  
7 regarding disclosure of the information as the original custodian of the information. The work  
8 product of the legislative budget assistant shall also be confidential to the extent required to  
9 preserve confidentiality required by law. Disclosure of confidential information to the legislative  
10 budget assistant shall be only for the purpose of, and to the extent necessary for, conducting audits  
11 as are required **or permitted** by law. The legislative budget assistant shall notify the head of any  
12 state department, board, institution, commission, agency, or political subdivision, or other entity  
13 authorized to expend state funds, before requiring the state entity to furnish any confidential **or**  
14 **privileged** information which was obtained by the entity through an exchange of information  
15 agreement with another state or the federal government. This paragraph shall not be construed to  
16 authorize disclosure to any member of the legislature or to any expert consultants, including certified  
17 public accountants and data processing experts, hired by the legislative budget assistant to assist  
18 him or her in the carrying out of the duties, except such summaries and results which do not disclose  
19 any identity required by law to be confidential **or privileged, including the attorney-client**  
20 **privilege**. If any entity objects to providing confidential **or privileged** information under the  
21 provisions of this paragraph, the state entity may apply to the ~~[attorney general]~~ **fiscal committee**  
22 **of the general court** for disapproval of the request. ~~[The attorney general may examine any~~  
23 ~~confidential information to which the legislative budget assistant has requested access to determine~~  
24 ~~whether or not it is necessary for the legislative budget assistant to examine the information to carry~~  
25 ~~out his or her duties as required by law. If the attorney general finds that such examination is not~~  
26 ~~necessary, he or she shall disapprove the request, and the agency shall not be required to provide~~  
27 ~~such information. If the entity agrees to provide the requested information, or if the attorney~~  
28 ~~general determines that it is necessary for the legislative budget assistant to examine the requested~~  
29 ~~information, such information shall be provided to the legislative budget assistant in a mutually~~  
30 ~~agreeable and compatible format.]~~

31 V. The commissioner of administrative services shall deliver to the legislative budget  
32 assistant the official financial information under the control of the commissioner as required by this  
33 section in a form unaltered from that which is finally reported in the **state's** integrated ~~[financial]~~,  
34 **multi-module, information technology system, including any related subsystems**. The  
35 approval of the governor, the speaker of the house of representatives, and the senate president shall  
36 be required for delivery of any other information, other than the official financial information  
37 required by this section. The right of access to information under this section shall not arise until

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1 after each transaction or event subject to RSA 91-A has taken place. Such information shall be  
2 provided to the legislative budget assistant in a mutually agreeable and compatible format at the  
3 end of each business day. The legislative budget assistant shall be subject to the provisions of  
4 RSA 21-I:13-a, II. This paragraph shall not be construed as granting the legislative budget assistant  
5 access to any information or any information system relative to the internal functions of the office of  
6 the governor or any executive agency, department, board, commission, or institution [~~through the~~  
7 ~~integrated financial system~~].

8 VI. In addition to any other reports required by statute or by the fiscal committee to be  
9 submitted by the legislative budget assistant, he *or she* shall submit to the members of the  
10 [~~appropriations,~~ finance<sup>[5]</sup> and ways and means committees a report of the results of post-audits,  
11 program result audits, and investigations he *or she* has conducted since the date of his *or her* last  
12 such report. The fiscal committee shall determine which policy committees of both houses of the  
13 general court, in addition to those listed in this paragraph, shall receive reports pursuant to this  
14 paragraph. The report required by this paragraph shall be submitted not later than January 25 of  
15 each regular legislative session.

16 2 Effective Date. This act shall take effect upon its passage.