

HB 216-FN – AS AMENDED BY THE SENATE

05/14/2015 1600s

2015 SESSION

15-0152
10/03

HOUSE BILL **216-FN**

AN ACT relative to recovery of certain investigatory costs by regulatory boards and commissions, and applying certain general administration provisions to the mechanical licensing board.

SPONSORS: Rep. C. McGuire, Merr 29; Rep. P. Schmidt, Straf 19; Sen. Reagan, Dist 17

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill provides for a procedure for the recovery of an occupational board or commission's investigatory costs from persons subject to disciplinary orders. This bill also requires that the general administration provisions of RSA 332-G be applicable to the mechanical licensing board.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to recovery of certain investigatory costs by regulatory boards and commissions, and applying certain general administration provisions to the mechanical licensing board.

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

1 1 New Section; Investigative Costs. Amend RSA 332-G by inserting after section 10 the
2 following new section:

3 332-G:11 Investigative Costs. For any order issued in resolution of a disciplinary proceeding by
4 any board or commission, where such board or commission has found misconduct sufficient to
5 support disciplinary action, the board or commission may require the licensee, registrant, or
6 certificate holder who is the subject of such finding to pay the board or commission a sum not to
7 exceed the reasonable cost of investigation and prosecution of the proceeding. Except where
8 otherwise limited, this sum shall not exceed \$10,000. This sum may be imposed in addition to any
9 otherwise authorized administrative fines levied by the board or commission as part of the penalty.
10 The investigative and prosecution costs shall be assessed by the board or commission and any sums
11 recovered shall be credited as restricted revenue for the use of the board or commission and shall not
12 lapse. Such sums shall be disbursed by the board or commission for any future investigations of
13 complaints. Orders of the board or commission shall be subject to rehearing and appeal in the
14 manner prescribed by RSA 541.

15 2 General Administration of Regulatory Boards and Commissions; Application to Mechanical
16 Licensing Board. Amend RSA 332-G:1 to read as follows:

17 332-G:1 Definitions; ***Application of Chapter.***

18 ***I.*** As used in this chapter, “board or commission” means any regulatory board or commission
19 established under this title, ***and the mechanical licensing board established in RSA 153:27-a .***

20 ***II.*** ***The provisions of this chapter applicable to occupations, trades, professions and***
21 ***businesses regulated under this title shall also apply to the mechanical licensing board***
22 ***and the trades, professions, and businesses regulated by the mechanical licensing board***
23 ***under RSA 153:27-RSA 153:38.***

24 3 Effective Date. This act shall take effect 60 days after its passage.

HB 216-FN FISCAL NOTE

AN ACT relative to recovery of certain investigatory costs by regulatory boards and commissions, and applying certain general administration provisions to the mechanical licensing board.

FISCAL IMPACT:

The Department of Health and Human Services, Joint Board of Licensure and Certification, Department of Agriculture, Markets, and Food, Department of Safety, and Department of State state this bill, **as amended by the Senate (Amendment #2015-1600s)**, may increase state revenues by an indeterminable amount in FY 2016 and each year thereafter. There will be no fiscal impact on state, county, and local expenditures, or county and local revenues.

METHODOLOGY:

The Department of Health and Human Services Administratively Attached Boards state this bill grants boards and commissions the ability to recover costs of up to \$10,000 for investigations and prosecutions involving disciplinary proceedings. The Boards state this bill may increase state revenues by an indeterminable amount in FY 2016 and each year thereafter. This bill will allow the Boards to recover a portion of the costs annually spent for board members' per diem and mileage costs and court reporters. However, the Boards report these costs are indeterminable. Further, the Boards have budgeted the following funds to pay for the services of the Department of Justice's Administrative Prosecution Unit, which are potentially recoverable costs:

Board Name	FY 2016	FY 2017
Medicine	\$100,658	\$102,613
Podiatry	\$5,131	\$5,131
Allied Health	\$25,165	\$25,653
Nurse Registration	\$171,119	\$174,442
Pharmacy Board	\$90,592	\$92,353
Chiropractic Examiners	\$10,066	\$10,261
Cosmetology/Barbers	\$10,066	\$10,261
Dental Board	\$50,239	\$51,307
Mental Health	\$30,197	\$30,784
Psychology	\$5,131	\$5,131
Totals	\$498,364	\$507,936

The Joint Board of Licensure and Certification states this bill may increase state revenues by an indeterminable amount in FY 2016 and each year thereafter. The Joint Board states the potentially recoverable costs incurred by boards for disciplinary hearings include board member per diems and mileage, court reporters, or expert witnesses. However, the Joint Board is unable to estimate such annual costs due to the number and complexity of investigations and prosecutions conducted. The Joint Board has budgeted the funds detailed in the table below which could potentially be recovered as a result of this bill.

	FY 2016	FY 2017
Department of Justice, Administrative Prosecution Unit	\$15,261	\$15,066
Part-time Investigator to Conduct Prosecutions on behalf of Boards	\$27,485	\$29,064
Total	\$42,746	\$44,130

The Department of Agriculture, Markets, and Food states this bill may increase state revenues by \$1,268 in FY 2016 and each year after. The Department's Board of Veterinary Medicine averages less than one case per year that results in a hearing and disciplinary action. The table below details the costs identified by the Department that could potentially be recovered annually:

Six Volunteer Board Members (\$75 meeting stipend)	\$450
Average Reimbursable Mileage Per Meeting	\$160
Hourly Rate of Part-time Employee Per Case (40 Hours at \$16.44)	\$658
Total	\$1,268

The Department of Safety states this bill will have an indeterminable impact on state general fund revenues in FY 2016 and each year thereafter. The Department's Mechanical Licensing Board is annually presented with 15 to 20 disciplinary cases and 85% are reviewed by the Board with an agency recommended consent agreement which renders no further action necessary. The Department is unable to estimate the investigative and adjudicative costs associated with the remaining cases.

The Department of State states this bill will have no fiscal impact on the Department.