

HB 633-FN - AS INTRODUCED

2015 SESSION

15-0338  
01/09

HOUSE BILL

***633-FN***

AN ACT establishing the right-to-know grievance commission and relative to notice of meetings under the right-to-know law.

SPONSORS: Rep. Weyler, Rock 13; Rep. Souza, Hills 43; Rep. Spillane, Rock 2

COMMITTEE: Judiciary

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ANALYSIS

This bill establishes the right-to-know grievance commission. The commission shall hear appeals from citizens relating to RSA 91-A. Decisions of the grievance commission may be appealed to the superior court. This bill also requires 72 hours notice of the meeting and the agenda before a public meeting held pursuant to the right-to-know law.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Fifteen*

AN ACT                    establishing the right-to-know grievance commission and relative to notice of meetings under the right-to-know law.

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

1            1 New Section; Right-to-Know Grievance Commission. Amend RSA 91-A by inserting after  
2 section 8 the following new section:

3            91-A:8-a Right-to-Know Grievance Commission.

4            I. There is hereby established the right-to-know grievance commission. The commission  
5 shall consist of 15 citizens who shall not be members of the New Hampshire general court. All  
6 members shall be residents of New Hampshire.

7            (a) The members shall be appointed as follows:

8            (1) Ten public members, one from each county, appointed by the governor and  
9 council.

10            (2) Of the 5 remaining members, one member shall be appointed by the speaker of  
11 the house of representatives, one member shall be appointed by the president of the senate, one  
12 member shall be appointed by the minority leader of the house of representatives, one member shall  
13 be appointed by the minority leader of the senate, and one member shall be appointed by the chief  
14 justice of the superior court.

15            (b) Each member of the commission shall, before performing his or her duties, take an  
16 oath to administer the duties of the commission faithfully and impartially, and such oath shall be  
17 filed in the office of the secretary of state.

18            (c) The initial members of the commission shall serve staggered terms as follows: 1/3 of  
19 the members shall serve for one year, 1/3 of the members shall serve for 2 years, and 1/3 of the  
20 members shall serve for 3 years. The term of office of each member shall be 3 years and until a  
21 successor is appointed and qualified. Vacancies shall be filled in the same manner and for the  
22 unexpired terms. Members of the commission shall receive no compensation except for mileage and  
23 other expenses incurred while performing commission business. Mileage shall be paid at the rate set  
24 for state employees. A chairperson and vice chairperson shall be chosen from among the members of  
25 the commission. Eight members of the commission shall constitute a quorum to conduct hearings.

26            (d) The commission shall be administratively attached, under RSA 21-G:10, to the  
27 department of justice.

28            II. The commission shall submit an annual report commencing on November 1, 2015,  
29 relative to the commission's actions and decisions to the speaker of the house of representatives, the  
30 president of the senate, the governor, and the state library.

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1           III. The commission shall hear and determine matters of grievance under RSA 91-A. Any  
2 citizen may petition the commission by filing a complaint with the commission and paying a \$75  
3 filing fee which shall be used to defray the costs of the commission. Such filing fee may be waived by  
4 the commission if the commission determines that such fee will cause an unfair financial burden on  
5 the petitioner. After review of the claim and a decision by the commission that the matter has merit  
6 and is not frivolous, the commission shall schedule a hearing within 60 days from the receipt of the  
7 claim. If the commission finds the claim to be without merit or to be frivolous, it shall dismiss the  
8 complaint and explain in writing to the complainant its reasons for dismissing the complaint. The  
9 commission shall serve notice, in writing, of the time and place of the hearing upon all appropriate  
10 parties at least 20 days prior to the date of the hearing. All hearings held by the commission shall be  
11 held pursuant to RSA 541-A:31-36 unless such proceedings are specifically inconsistent with the  
12 provisions of this chapter.

13           IV. The commission shall issue its decisions in writing and shall include findings of facts.  
14 The party or parties shall be notified by mail of any decision.

15           V. The parties shall have 30 days to request reconsideration of rulings made by the  
16 commission. A motion for reconsideration or other post-decision relief shall be filed within 30 days of  
17 the date of on the clerk's written notice of the order of decision, which shall be mailed by the clerk on  
18 the date of the notice. The motion shall state, with particular clarity, points of law or fact that the  
19 commission has overlooked or misapprehended and shall contain such argument in support of the  
20 motion as the claimant desires to be present, but the motion shall not exceed 10 pages. A hearing on  
21 the motion shall not be permitted except by order of the commission. If a motion for reconsideration  
22 or other post-decision relief is granted, the commission may revise its order or take other appropriate  
23 action without rehearing or may schedule a further hearing.

24           VI. A decision of the commission may be appealed, by either party, by applying for a  
25 rehearing and appealing to the superior court for the county in which the party resides in accordance  
26 with the procedures set forth in RSA 677:2-14, inclusive.

27           VII. If no timely appeal is taken pursuant to paragraph VI, the decision of the commission  
28 shall become final. The commission shall file a certified abstract of any final decision with the clerk  
29 of the superior court in the county of residence of the complainant. The clerk of such court shall  
30 enter judgment thereon, and such judgment may be enforced as with any final judgment of the  
31 superior court.

32           2 Right-to-Know; Meetings Open to the Public. Amend RSA 91-A:2, II to read as follows:

33           II. Subject to the provisions of RSA 91-A:3, all meetings, whether held in person, by means  
34 of telephone or electronic communication, or in any other manner, shall be open to the public.  
35 Except for town meetings, school district meetings, and elections, no vote while in open session may  
36 be taken by secret ballot. Any person shall be permitted to use recording devices, including, but not  
37 limited to, tape recorders, cameras, and videotape equipment, at such meetings. Minutes of all such

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1 meetings, including names of members, persons appearing before the public bodies, and a brief  
2 description of the subject matter discussed and final decisions, shall be promptly recorded and open  
3 to public inspection not more than 5 business days after the meeting, except as provided in RSA 91-  
4 A:6, and shall be treated as permanent records of any public body, or any subordinate body thereof,  
5 without exception. Except in an emergency or when there is a meeting of a legislative committee, a  
6 notice of the time and place of each such meeting, including a nonpublic session, shall be posted in 2  
7 appropriate places one of which may be the public body's Internet website, if such exists, or shall be  
8 printed in a newspaper of general circulation in the city or town. **Meeting notice and the agenda**  
9 **shall be made** at least ~~[24]~~ 72 hours, excluding Sundays and legal holidays, prior to such meetings.  
10 An emergency shall mean a situation where immediate undelayed action is deemed to be imperative  
11 by the chairman or presiding officer of the public body, who shall post a notice of the time and place  
12 of such meeting as soon as practicable, and shall employ whatever further means are reasonably  
13 available to inform the public that a meeting is to be held. The minutes of the meeting shall clearly  
14 spell out the need for the emergency meeting. When a meeting of a legislative committee is held,  
15 publication made pursuant to the rules of the house of representatives or the senate, whichever rules  
16 are appropriate, shall be sufficient notice. If the charter of any city or town or guidelines or rules of  
17 order of any public body require a broader public access to official meetings and records than herein  
18 described, such charter provisions or guidelines or rules of order shall take precedence over the  
19 requirements of this chapter. For the purposes of this paragraph, a business day means the hours of  
20 8 a.m. to 5 p.m. on Monday through Friday, excluding national and state holidays.

21 3 Effective Date.

22 I. Section 2 of this act shall take effect January 1, 2016.

23 II. The remainder of this act shall take effect upon its passage.

LBAO  
15-0338  
Revised 01/26/15

**HB 633-FN - FISCAL NOTE**

AN ACT                    establishing the right-to-know grievance commission and relative to notice of meetings under the right-to-know law.

**FISCAL IMPACT:**

The Office of Legislative Budget Assistant is unable to complete a fiscal note for this bill, **as introduced**, as it is awaiting information from the Department of Justice and Judicial Branch, who were contacted on 01/08/15. When completed, the fiscal note will be forwarded to the House Clerk's Office.