

HB 636-FN - AS INTRODUCED

2023 SESSION

23-0660

10/08

HOUSE BILL **636-FN**

AN ACT relative to required education for zoning board of adjustment members.

SPONSORS: Rep. Corcoran, Hills. 44

COMMITTEE: Municipal and County Government

ANALYSIS

This bill requires local zoning board of adjustment officials to complete an annual course and written test designed and administered by the department of business and economic affairs in order to participate in zoning board of adjustment meetings.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to required education for zoning board of adjustment members.

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

1 1 Local Land Use Boards Members; Training; Zoning Board of Adjustment Required. Amend
2 RSA 673:3-a to read as follows:

3 673:3-a Training.

4 ***I.*** Any member of a [~~zoning board of adjustment or~~] planning board may complete training
5 offered by the office of planning and development or another organization that provides similar
6 training covering the processes, procedures, regulations, and statutes related to the board on which
7 the member serves. The office of planning and development shall develop standard self-training
8 materials and corresponding tests for [~~zoning boards of adjustment and~~] planning boards which shall
9 be provided to members free of charge. The office of planning and development may provide other
10 types of training, which may be designed in a variety of formats including, but not limited to, web-
11 based, distance learning, or traditional classroom style. For purposes of this section, the term
12 "member" includes regular and alternate members of [~~zoning boards of adjustment and~~] planning
13 boards.

14 ***II.*** *The department of business and economic affairs shall design and host an 8-*
15 *hour class designed to educate zoning board of adjustment (ZBA) officials on the duties*
16 *and proper processes of zoning boards of adjustment, based on the handbook "The Zoning*
17 *Board of Adjustment in New Hampshire". The class shall be offered at least once per*
18 *calendar year and shall be offered free of charge to attendees.*

19 ***(a)*** *The class shall have at least 4 hours of instruction on the 5 prongs of the*
20 *variance process, including references to current New Hampshire supreme court*
21 *precedents and explaining that ZBA members are bound by such precedents. The class*
22 *shall have at least one hour of instruction on complying with RSA 91-A on open meetings*
23 *and at least 1/2 hour of instruction on the proper discussion and voting procedures for ZBA*
24 *meetings.*

25 ***(b)*** *The class shall include a written test, testing the comprehension of the*
26 *attendees on variance process, the appeal of administrative decision process, and RSA 91-a*
27 *compliance. No written test, having been offered on one testing date, shall be re-used on*
28 *any other testing date. Scoring of at least 80 percent on the test shall be considered*
29 *satisfactory. The written tests shall be graded by the department of business and economic*
30 *affairs. The department shall publish, within 60 days of each testing date, on a publicly*
31 *accessible website, the total number of test takers, the total passing rate, and the list of*

1 *those test takers who passed, the list of those test takers who did not pass, and the passing*
2 *rate organized by town or city. The department shall strive, if the passing rate for a given*
3 *instance of the test, is ever in excess of 90 percent, to increase the difficulty of the test to*
4 *lower the passing rate at the next test date.*

5 *(c) No person who has not passed the written test within the previous 12 months*
6 *shall sit on any zoning board of adjustment meeting and shall not have his or her presence*
7 *count for a quorum, nor shall any vote cast by such a person in that meeting count towards*
8 *the vote total. Any person attempting to sit on or vote in a zoning board of adjustment*
9 *meeting without having passed the test within the previous 12 months shall be subject to a*
10 *fine not less than \$100 per incident assessed by the commissioner of business and economic*
11 *affairs. Unpaid fines after 30 days shall be increased to \$200 and after 60 days shall have*
12 *a 10 percent annual interest rate applied to the fine until paid. No town or state body shall*
13 *reimburse a fined individual for the amount assessed.*

14 2 Effective Date. This act shall take effect 60 days after its passage.

LBA
23-0660
1/10/23

**HB 636-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to required education for zoning board of adjustment members.

FISCAL IMPACT: ☒ **State** ☐ **County** ☒ **Local** ☐ **None**

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Unknown	Unknown	Unknown
Expenditures	\$0	Unknown	Unknown	Unknown
Funding Source:	<input type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input type="checkbox"/> Other			

LOCAL:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

The Legislative Budget Assistant is still awaiting information from the Department of Business and Economic Affairs in response to this bill. The Department of Business and Economic Affairs was originally contacted on 12/16/22 for a fiscal note worksheet.

METHODOLOGY:

This bill requires local zoning board of adjustment (ZBA) officials to complete an annual course and written test designed and administered by the Department of Business and Economic Affairs in order to participate in zoning board of adjustment meetings.

The New Hampshire Municipal Association states there could be an indeterminable increase in local expenditures to the extent they are unable to find at least 3 people to serve on a ZBA due to the new requirements. If they were unable to find members they would be unable to function and any appeals to the ZBA would require an action in Superior court causing the municipality associated with the resolution to pay legal costs.

It is assumed any fiscal impact from this bill will not occur until FY 2024.

AGENCIES CONTACTED:

Department of Business and Economic Affairs and New Hampshire Municipal Association

