

CHAPTER 163
HB 108-FN-LOCAL - FINAL VERSION

05/27/2021 1711s
24Jun2021... 1973CofC

2021 SESSION

21-0315
08/06

HOUSE BILL ***108-FN-LOCAL***

AN ACT relative to minutes and decisions in nonpublic sessions; an exemption for items falling within the attorney-client privilege or the attorney work product doctrine under the right-to-know law; and remote access to public meetings under the right-to-know law.

SPONSORS: Rep. Ulery, Hills. 37; Rep. Spillane, Rock. 2; Rep. McGuire, Merr. 29; Rep. T. Lekas, Hills. 37

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill:

I. Requires that for meetings in nonpublic session where the minutes or decisions were determined to not be subject to public disclosure, a list shall be kept which shall include certain information. The list shall be made available for public disclosure.

II. Exempts materials falling within the attorney-client privilege or attorney work product doctrine from the provisions of RSA 91-A.

III. Establishes a committee to review authorizing governing bodies of municipalities to hold virtual meetings and to study remote access to meetings under RSA 91-A.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to minutes and decisions in nonpublic sessions; an exemption for items falling within the attorney-client privilege or the attorney work product doctrine under the right-to-know law; and remote access to public meetings under the right-to-know law.

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

1 163:1 Right-to-Know Law; Nonpublic Sessions. Amend RSA 91-A:3, III to read as follows:

2 III. Minutes of meetings in nonpublic session shall be kept and the record of all actions shall
3 be promptly made available for public inspection, except as provided in this section. Minutes of such
4 sessions shall record all actions in such a manner that the vote of each member is ascertained and
5 recorded. Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72
6 hours of the meeting, unless, by recorded vote of 2/3 of the members present taken in public session,
7 it is determined that divulgence of the information likely would affect adversely the reputation of
8 any person other than a member of the public body itself, or render the proposed action ineffective,
9 or pertain to terrorism, more specifically, to matters relating to the preparation for and the carrying
10 out of all emergency functions, developed by local or state safety officials that are directly intended
11 to thwart a deliberate act that is intended to result in widespread or severe damage to property or
12 widespread injury or loss of life. This shall include training to carry out such functions. In the event
13 of such circumstances, information may be withheld until, in the opinion of a majority of members,
14 the aforesaid circumstances no longer apply. ***For all meetings held in nonpublic session, where
15 the minutes or decisions were determined to not be subject to full public disclosure, a list of
16 such minutes or decisions shall be kept and this list shall be made available as soon as
17 practicable for public disclosure. This list shall identify the public body and include the
18 date and time of the meeting in nonpublic session, the specific exemption under paragraph
19 II on its face which is relied upon as foundation for the nonpublic session, the date of the
20 decision to withhold the minutes or decisions from public disclosure, and the date of any
21 subsequent decision, if any, to make the minutes or decisions available for public
22 disclosure. Minutes related to a discussion held in nonpublic session under subparagraph
23 II(d) shall be made available to the public as soon as practicable after the transaction has
24 closed or the public body has decided not to proceed with the transaction.***

25 163:2 New Paragraph; Right To Know; Exemptions. Amend RSA 91-A:5 by inserting after
26 paragraph XI the following new paragraph:

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1 XII. Records protected under the attorney-client privilege or the attorney work product
2 doctrine.

3 163:3 Committee Established. There is established a committee to review authorizing
4 governing bodies of municipalities to hold virtual meetings and to study remote access to meetings
5 under RSA 91-A.

6 163:4 Membership and Compensation.

7 I. The members of the committee shall be as follows:

8 (a) Two members of the senate, appointed by the president of the senate.

9 (b) Three members of the house of representatives, appointed by the speaker of the
10 house of representatives.

11 II. Members of the committee shall receive mileage at the legislative rate when attending to
12 the duties of the committee.

13 163:5 Duties. The committee shall review authorizing governing bodies of municipalities to hold
14 virtual meetings and to study remote access to meetings under RSA 91-A.

15 163:6 Chairperson; Quorum. The members of the study committee shall elect a chairperson
16 from among the members. The first meeting of the committee shall be called by the first-named
17 senate member. The first meeting of the committee shall be held within 45 days of the effective date
18 of this section. Three members of the committee shall constitute a quorum.

19 163:7 Report. The committee shall report its findings and any recommendations for proposed
20 legislation to the president of the senate, the speaker of the house of representatives, the senate
21 clerk, the house clerk, the governor, and the state library on or before November 1, 2021.

22 163:8 Effective Date.

23 I. Section 1 of this act shall take effect January 1, 2022.

24 II. Sections 3-7 of this act shall take effect 60 days after its passage.

25 III. The remainder of this act shall take effect upon its passage.

Approved: July 30, 2021

Effective Date:

I. Section 1 shall take effect January 1, 2022.

II. Sections 3-7 shall take effect September 28, 2021.

III. Remainder shall take effect July 30, 2021.

