

HB 616-FN - AS INTRODUCED

2021 SESSION

21-0646

11/06

HOUSE BILL ***616-FN***

AN ACT relative to review of planning board decisions.

SPONSORS: Rep. Barody, Hills. 43

COMMITTEE: Municipal and County Government

ANALYSIS

This bill requires a bond to be posted in certain appeals of zoning decisions.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

In the Year of Our Lord Two Thousand Twenty One

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

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

**HB 616-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to review of planning board decisions.

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

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Judicial Branch Facility Improvement Fund (RSA 490:26-c) and Technology Fund (RSA 490:26-h)			

LOCAL:

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

METHODOLOGY:

This bill requires the posting of a bond by a direct abutter who wishes to appeal the approval of a residential or commercial site plan. Such bond shall be in the amount of the assessed value of the property. The bond shall cover attorney fees for the appellee and developer carrying costs incurred during the appeal period should the appeal be unsuccessful. The fee to file such appeal is set at \$1,700.

The Judicial Branch indicates the new filing fee of \$1,700 would replace the existing \$280 filing fee. The Branch states it has received 25-30 planning board appeals and 27-45 zoning board appeals per year over the last 2 years. The Branch does not know whether these appeals related to the approval of residential or commercial site plans. Assuming all such appeals would be covered by this legislation, on average 52-75 appeals per year would be subject to the new \$1,700 fee, yielding an additional \$73,000-\$107,000 in revenue. However, the Branch expects the new filing fee, posting of bond and risk of payment of attorney fees would result in less appeals filed. This in turn may lead to a decrease in filing fees and less resources needed for processing these cases. Because of these uncertainties, the fiscal impact is indeterminable.

The New Hampshire Municipal Association states that while the bill references appeals for direct abutters and a new fee, there are existing provisions for appeal of zoning board decisions

(RSA 677:4) and planning board decisions (RSA 677:15) which remain viable and allow for any aggrieved person to appeal. There may be instances where a municipal governing body appeals the decision of a zoning board. In such cases, there may be an additional cost for the posting of the bond required by this bill. If the appeal is unsuccessful, the municipality would incur costs to pay for the appellee's attorney fees and the developer's carrying costs. These amounts would vary depending on the circumstances of each case, so the possible additional expenditure is indeterminable. There will be no impact on municipal revenues.

It is assumed this bill will take effect July 1, 2021.

AGENCIES CONTACTED:

Judicial Branch and New Hampshire Municipal Association