

Bill as Introduced

HB 1218 - AS INTRODUCED

2000 SESSION

00-2297

10/09

HOUSE BILL

1218

AN ACT

relative to discipline of state employees or officers making willful false statements.

SPONSORS:

Rep. Gilman, Graf 1; Rep. K. Herman, Hills 13; Rep. Ward, Graf 1

COMMITTEE:

Executive Departments and Administration

ANALYSIS

This bill makes any state employee or officer subject to termination or removal following a disciplinary hearing establishing that the person made certain false statements.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to discipline of state employees or officers making willful false statements.

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

1 1 New Paragraph; Administrative Services Division of Personnel. Amend RSA 21-I:42 by
2 inserting after paragraph XVII the following new paragraph:

3 XVIII. Conduct disciplinary hearings for matters arising under RSA 96 pursuant to rules of
4 the department concerning adjudicative proceedings adopted under RSA 541-A.

5 2 Chapter Heading. Amend the chapter heading of RSA 96 to read as follows:

6 FALSE STATEMENTS ~~[RELATIVE TO PUBLIC WORKS OR CONTRACTS]~~

7 **BY STATE OFFICERS OR EMPLOYEES**

8 3 False Certification or Statement; Public Works. Amend RSA 96:1 and 96:2 to read as follows:

9 96:1 **Public Works or Contracts**; False Certification; Penalty. If any officer or employee of the
10 state who is responsible for certification of any work progress report, invoice, manifest or other
11 document used as a basis for payment of any money appropriated under any capital or other budget
12 act shall knowingly or willfully make or certify any false statement in connection therewith, he *or*
13 *she* shall be guilty of a class B felony.

14 96:2 **Public Works or Contracts**; False Statement; Penalty. If any officer or employee of the
15 state in performing the duty of awarding any contract as a result of competitive bid, required under
16 any capital budget act, shall knowingly or willfully make or certify any false statement in connection
17 therewith or shall recommend to the governor and council the approval of any such award to other
18 than the lowest responsible bidder, except as provided by law, he *or she* shall be guilty of a class B
19 felony.

20 4 New Section; False Statement; Disciplinary Hearing. Amend RSA 96 by inserting after
21 section 2 the following new section:

22 96:3 False Statement; Disciplinary Hearing. If any officer or employee of the state in performing
23 the duty of his or her position shall knowingly or willfully make or certify any false statement in
24 order to impede a process of a state agency, to gain advantage in employment or status, or to cause
25 harm to a superior, co-worker, or any subordinate, shall upon so finding pursuant to a disciplinary
26 hearing held by the director of personnel, department of administrative services of the state, be
27 terminated from state employment if a state employee or, if a state officer, be recommended for
28 removal under RSA 4 by procedures for removal of state officers.

29 5 Effective Date. This act shall take effect January 1, 2001.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 1218

BILL TITLE: relative to discipline of state employees or officers making willful false statements

DATE: February 8, 2000

LOB ROOM: 202 **Time Public Hearing Called to Order:** 1:30 PM

Time Adjourned: 1:56 PM

(please circle if present)

Committee Members: Reps. Mercer, Goulet, Dyer, Langer, Holley, B. Moore, Dickinson, Stickney, Sapareto, Hamel, Millham, O'Neil, Poulton, Zolla, Murphy, Reid, Virtue, Batchelder, Burkush, Courchesne, Landers and Lent

Bill Sponsors: Rep. Gilman, Graf 1; Rep. K. Herman, Hills 13; Rep. Ward, Graf 1


TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Gilman, sponsor. Important for state employees at every level. Things that go on are incredible. Sense of frustration because of false statements. Spoke in generalities. People complaining but still employed.

*Rep. Herman, co-sponsor. Supports bill. Gave an example of challenging the certification of a teacher in a Milford school. The supt. of schools validated the certification after the state board of education signed a statement that the individual had all the valid requirements. Later the challenger received a letter acknowledging that the above was not true. The challenger could not get any remedy and the individual employed by the state still kept his job. See personnel rule 1001.08 dismissed.

Respectfully submitted,


Rep. Ray Langer, Clerk

Testimony

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Per 1001.08 Dismissal.

(a) Dismissal shall be considered the most severe form of discipline. An appointing authority shall be authorized to take the most severe form of discipline by immediately dismissing an employee without warning for offenses such as, but not necessarily limited to, the following:

- (1) Theft of valuable goods or services from the state or from any other employee or client of the agency;
- (2) Willful abuse, misuse or destruction of state property or the property of any employee or client of the agency which, in the opinion of the appointing authority, represents a substantial cost for repair or replacement;
- (3) Violation of a posted or published agency policy, the text of which clearly states that violation of same will result in immediate dismissal;
- (4) Being the aggressor in a fight or an attempt to injure another person in the workplace;
- (5) Engaging in subversive activities prohibited by RSA 648;
- (6) Refusal to accept a job assignment;
- (7) The loss or expiration of a license or certification required by the class specification or supplemental job description for performance of the duties of a position;
- (8) Willful falsification of agency records including, but not limited to:
 - a. Requests for annual leave, sick leave, civil leave or military leave;
 - b. Payment vouchers or audit documents;
 - c. Requests for payment of overtime or compensatory time;
 - d. Personnel action forms and eligibility for employment forms; and
 - e. Applications for employment;
- (9) Willful insubordination;
- (10) Willful misuse of a supervisory position;
- (11) Absence for a period of 3 or more consecutive work days without proper notification or adequate reason;
- (12) Willful release of confidential information, provided that the agency has a policy detailing which records are deemed confidential;
- (13) Failure to report promptly to work at the conclusion of an approved leave;
- (14) Inability to perform duty assignments due to being under the influence of alcohol or drugs;
- (15) Consumption of alcohol while on duty;
- (16) The use, possession, distribution, dispensation, or manufacture of a controlled substance at any duty

station or workplace, unless such use, possession, distribution, dispensation or manufacture is lawful under state or federal law regulating controlled substances;

(17) Failure to report in writing to the appointing authority any criminal conviction based on the unlawful use, possession, distribution, dispensation or manufacture of a controlled substance at a state workplace within 5 days from entry of the trial court's decision, regardless of whether an appeal is taken;

(18) Conviction of any criminal offense based upon the unlawful use, possession, distribution, dispensation or manufacture of a controlled substance at a state workplace, provided that:

a. An appointing authority shall take appropriate disciplinary action, including possible conditional discipline, for violations of this subparagraph within 30 calendar days after learning of a conviction; and

b. An appointing authority shall have the discretion to condition the severity or nature of any disciplinary sanctions for violations of Per 1001.08(a)(14), (15), or (16), or for any other misconduct in which abuse of a controlled substance is a substantial factor, upon the employee's satisfactorily completing a specific controlled substance rehabilitation program recommended or certified for such purposes by the office of alcohol and drug abuse prevention, the division of public health services, or an appropriate federal or local agency.

(19) Sexual harassment; and

(20) Unauthorized use or gross misuse of information or communications systems.

Voting Sheets

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 1218

BILL TITLE: relative to discipline of state employees or officers making willful false statements.

DATE: March 21, 2000

LOB ROOM: 202

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. O'Neil

Seconded by Rep. Zolla

Vote: 14-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 14-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Ray F. Langer, Clerk

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

Bill #: HB 1218 Title: _____PH Date: 1 / 1 / _____Exec Session Date: 3 / 21 / 00Motion: ITL Amendment #: _____

MEMBER	YEAS	NAYS
Mercer, Robert S, Chairman		
Goulet, Maurice E, V Chairman	1	
Dyer, Merton S		
Langer, Ray F, Clerk	2	
Holley, Sylvia A	3	
Moore, Benjamin E		
Dickinson, Howard C	4	
Stickney, Nancy C	5	
Sapareto, Frank V		
Hamel, Albert W		
Millham, Alida I	6	
O'Neil, Michael	7	
Poulin, Dave G	8	
Zolla, William R	9	
Murphy, Robert E	10	
Reidy, Frank J		
Virtue, Carolyn A		
Batchelder, Robert C	11	
Burkush, James A	12	
Courchesne, Judy A		
Landers, Dana L	13	
Lent, Donald R	14	
	14	0
TOTAL VOTE:		
Printed: 12/30/1999		

Committee Report

COMMITTEE REPORT

COMMITTEE: **Executive Departments and Administration**

BILL NUMBER: **HB 1218**

TITLE: relative to discipline of state employees or officers making willful false statements.

DATE: March 22, 2000

CONSENT CALENDAR YES NO

- OUGHT TO PASS
- OUGHT TO PASS WITH AMENDMENT
- INEXPEDIENT TO LEGISLATE
- RE-REFER
- REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT (Include Committee Vote)

The committee felt that the issue addressed in this legislation would be best handled under the New Hampshire division of personnel and not through new legislation. The department has established rules to deal with disciplinary hearing to ensure proper handling of personnel policies and procedure including grounds for dismissal of state employees.

Vote 14-0.

Rep. Michael O'Neil
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Executive Departments and Administration

HB 1218, relative to discipline of state employees or officers making willful false statements.
INEXPEDIENT TO LEGISLATE

Rep. Michael O'Neil for Executive Departments and Administration: The committee felt that the issue addressed in this legislation would be best handled under the New Hampshire division of personnel and not through new legislation. The department has established rules to deal with disciplinary hearing to ensure proper handling of personnel policies and procedure including grounds for dismissal of state employees. Vote 14-0.

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The committee felt that the issue addressed in this legislation would be best handled under the New Hampshire Division of Personnel and not thru new legislation. The Department has established rules to deal with disciplinary hearings to ensure proper handling of personnel policies and procedures, including grounds for dismissal of state employees.