

Bill as Introduced

HB 1174 - AS INTRODUCED

2010 SESSION

10-2531
06/09

HOUSE BILL

1174

AN ACT relative to terms for appointed town officials.

SPONSORS: Rep. Osborne, Merr 12; Rep. Cooney, Graf 7; Rep. Hamm, Merr 4

COMMITTEE: Municipal and County Government

ANALYSIS

This bill provides that the term of an appointed official continues until a successor is appointed and qualified.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to terms for appointed town officials.

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

1 1 New Section; Term of Office. Amend RSA 41 by inserting after section 57 the following new
2 section:

3 41:57-a Term of Office. Except as otherwise provided, the term of office of any appointed town
4 officer shall begin upon his or her appointment and qualification for office and shall end upon the
5 appointment and qualification of his or her successor.

6 2 Appointive Officers. Amend RSA 49-C:20 to read as follows:

7 49-C:20 Appointive Officers. The charter shall provide for the appointment of a city clerk, a
8 treasurer, one or more assessors, a fire chief, a police chief, a health officer, a city solicitor, a general
9 assistance administrator, and such other officers as may be necessary to administer all departments
10 which the elected body and the charter shall establish. Assessors shall, prior to appointment, have
11 demonstrated knowledge of property appraisal or assessment and of the laws governing the
12 assessment and collection of property taxes. The powers and duties of appointed officers and heads
13 of departments shall be those prescribed by state law, by the charter or by ordinance. *Unless*
14 *otherwise provided in the charter or by law, the term of office of any appointed officer shall*
15 *begin upon his or her appointment and qualification for office and shall end upon the*
16 *appointment and qualification of his or her successor.*

17 3 New Paragraph; Terms of Local Land Use Board Members. Amend RSA 673:5 by inserting
18 after paragraph II the following new paragraph:

19 III. Except as otherwise provided, the term of office of any appointed local land use board
20 member shall begin upon his or her appointment and qualification for office and shall end upon the
21 appointment and qualification of his or her successor.

22 4 Effective Date. This act shall take effect 60 days after its passage.

Amendments

Rep. Merry, Belk. 2
January 8, 2010
2010-0107h
06/09

Amendment to HB 1174

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to terms for appointed town officials and relative to pay for members of
4 park or recreation commissions.
5

6 Amend the bill by inserting after section 3 the following and renumbering the original section 4 to
7 read as 5:

8

9 4 Recreation or Park Commission. Amend RSA 35-B:4 to read as follows:

10 35-B:4 Recreation or Park Commission. If any town, city, county, or village district decides that
11 the above powers shall be exercised by a recreation or park commission, it shall consist of citizens of
12 such town, city, county, or village district ~~[who shall serve without pay]~~. In cities the citizens shall
13 be appointed by the mayor or city council, subject to provisions of the city charter; in towns by the
14 selectmen; and in other political subdivisions by the governing body of the subdivision. The persons
15 initially appointed to the commission shall serve staggered terms. Their successors shall be
16 appointed under the same appointing procedure for 3 years. Vacancies as they occur shall be filled
17 by the appointing authority for the unexpired term. Any city or town may by ordinance or resolution
18 provide that the mayor or a selectman, or councilman, shall be an ex officio member of the
19 commission.



2010-0107h

AMENDED ANALYSIS

This bill:

I. Provides that the term of an appointed official continues until a successor is appointed and qualified.

II. Permits municipalities to pay members of a recreation or park commission.

Amendment to HB 1174

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to terms for appointed town officials and relative to pay for members of
4 park or recreation commissions.
5

6 Amend the bill by replacing all after section 1 with the following:

7

8 2 Appointive Officers. Amend RSA 49-C:20 to read as follows:

9 49-C:20 Appointive Officers. The charter shall provide for the appointment of a city clerk, a
10 treasurer, one or more assessors, a fire chief, a police chief, a health officer, a city solicitor, a general
11 assistance administrator, and such other officers as may be necessary to administer all departments
12 which the elected body and the charter shall establish. Assessors shall, prior to appointment, have
13 demonstrated knowledge of property appraisal or assessment and of the laws governing the
14 assessment and collection of property taxes. The powers and duties of appointed officers and heads
15 of departments shall be those prescribed by state law, by the charter or by ordinance. *Unless*
16 *otherwise provided in the charter or by law, the term of office of any appointed officer shall*
17 *begin upon his or her appointment and qualification for office and shall end upon the date*
18 *so established. If no successor has been appointed and qualified at the expiration of an*
19 *appointed member's term, the member shall be entitled to remain in office until a successor*
20 *has been appointed and qualified.*

21 3 New Paragraph; Terms of Local Land Use Board Members. Amend RSA 673:5 by inserting
22 after paragraph II the following new paragraph:

23 III. The term of office for an appointed local land use board member shall begin on a date
24 established by the appointing authority, or as soon thereafter as the member is qualified, and shall
25 end 3 years after the date so established. If no successor has been appointed and qualified at the
26 expiration of an appointed member's term, the member shall be entitled to remain in office until a
27 successor has been appointed and qualified.

28 4 Local Land Use Board; Definition. Amend RSA 672:7 to read as follows:

29 672:7 Local Land Use Board. "Local land use board" means a planning board, historic district
30 commission, inspector of buildings, building code board of appeals, [er] zoning board of adjustment,
31 *or other board or commission authorized under RSA 673* established by a local legislative body.

32 5 Recreation or Park Commission. Amend RSA 35-B:4 to read as follows:

Amendment to HB 1174

- Page 2 -

1 35-B:4 Recreation or Park Commission. If any town, city, county, or village district decides that
2 the above powers shall be exercised by a recreation or park commission, it shall consist of citizens of
3 such town, city, county, or village district [~~who shall serve without pay~~]. In cities the citizens shall
4 be appointed by the mayor or city council, subject to provisions of the city charter; in towns by the
5 selectmen; and in other political subdivisions by the governing body of the subdivision. The persons
6 initially appointed to the commission shall serve staggered terms. Their successors shall be
7 appointed under the same appointing procedure for 3 years. Vacancies as they occur shall be filled
8 by the appointing authority for the unexpired term. Any city or town may by ordinance or resolution
9 provide that the mayor or a selectman, or councilman, shall be an ex officio member of the
10 commission.

11 6 Effective Date. This act shall take effect 60 days after its passage.

Amendment to HB 1174
- Page 3 -

2010-0200h

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13 demonstrated knowledge of property appraisal or assessment and of the laws governing the
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21 3 New Paragraph; Terms of Local Land Use Board Members. Amend RSA 673:5 by inserting
22 after paragraph II the following new paragraph:

23 III. The term of office for an appointed local land use board member shall begin on a date
24 established by the appointing authority, or as soon thereafter as the member is qualified, and shall
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4 be appointed by the mayor or city council, subject to provisions of the city charter; in towns by the
5 selectmen; and in other political subdivisions by the governing body of the subdivision. The persons
6 initially appointed to the commission shall serve staggered terms. Their successors shall be
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2010-0200h

AMENDED ANALYSIS

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I. Provides that the term of an appointed official continues until a successor is appointed and qualified.

II. Permits municipalities to pay members of a recreation or park commission.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON HB 1174

BILL TITLE: relative to terms for appointed town officials.

DATE: January 12, 2010

LOB ROOM: 301 **Time Public Hearing Called to Order:** 10:09 am

Time Adjourned: 10:43 am

(please circle if present)

Committee Members: Reps. ~~Cooney~~, ~~Gagnon~~, ~~Osborne~~, ~~K. Brown~~, ~~Laliberte~~, ~~Wheeler~~, ~~Boisvert~~, ~~Carlson~~, ~~Lauterborn~~, ~~Lewis~~, ~~Schuett~~, ~~Patten~~, Boyce, C. Soucy, J. Sullivan, Crisler, Ferrante, Perkins and Sterling

Bill Sponsors: Rep. Osborne, Merr 12; Rep. Cooney, Graf 7; Rep. Hamm, Merr 4

TESTIMONY

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

Rep. Osborne introduced the bill.

Rep. C. Hamm, supports the bill, did not speak.

Barbara Annis, Warner Planning Board, opposes the bill, especially section re: selectmen appointing successor. Feels planning board members would have to make decisions that please the selectmen or could be in danger of being replaced. Boards should be diverse in order to deal with changing times. This bill, with no term limits, would make the planning boards rubber stamps for the selectmen.

***Cordell Johnston**, NH Mun Assoc. Supports the bill. Explained that language in the next bill, HB 1288 would alleviate the problem the last speaker fears. Will propose an amendment. Recommends staggered terms. Cited possibility of confusion as to what exact terms of town officials should be. Suggests using same 'term' language in RSA for elected officials be put in place through this bill. RSA 672:7 needs to be updated to cover newly created positions.

Rep. Lauterborn: Would this include Conservation Commissions? Ans-No, that would not be included under this definition.

Rep. Lauterborn: In cities we have problems with gaps after elections. Could city boards and commissions be included. Ans.-Yes, if they are appointed. If such appointee wished not to continue, they could resign.

Rep. Laliberte: What about when someone resigns mid-term. Ans.-No, that would be a separate issue. A new appointee would just finish that term.

Rep. Crisler: Term states three years, couldn't a replacement appointee claim a renewed three years for themselves? Ans. I don't think so. If I resign after 1 1/2 years, the new appointee would serve 1 1/2 years.

Rep. Crisler: This language doesn't say that. Ans- We can work on that language.

Rep. Brown: Doesn't the term apply to the office, not the individual serving. Ans. There are provisions for removal from office for malfeasance, but not just because I did something the selectmen don't like.

Rep. Sterling: Couldn't the language, 'fill the unexpired term' be used. Ans.-Yes

Rep. Ferrante: What about alternates? .Ans.-This would apply to an alternate also. If an elected board, the alternate is placed.

Rep. Lauterborn: Did we not fix the question of alternates last session. Ans.- Yes

Rep. Lewis: Does the word town just mean generic for city, town, etc. now. Ans.- You are looking at line

3? That applies only to towns. Sec. 2 applies to cities.

Rep. Boisvert: What about the case with term limits, can a member still stay on until a replacement is found. Ans.-Yes, except if your city charter (Manchester) has specific language prohibiting that. Manchester charter does prohibit it.

Rep. Brown: Is it not true that removal can only come by statute. Ans.- Yes, per RSA 673:13. You cannot arbitrarily remove.

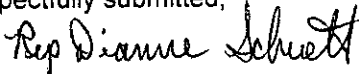
Rep. Osborne introduced proposed Am #0107h for Rep. Merry, to correct a problem with 'stipends' in the town of Tilton.

Cordell. Johnston spoke in favor of the amendment 0107h.

Rep. Lauterborn: I think the language should be changed. Ans.-It will be attached to this bill, but applies to RSA 35.

Rep. Crisler: If a town has a recreation director, would this apply. Ans.- I don't think so, that would be an employee of the town.

Respectfully submitted,



Rep. Dianne Schuett
Clerk

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON HB 1174

BILL TITLE: relative to terms for appointed town officials.

DATE: 1/12/2010

LOB ROOM: 301

Time Public Hearing Called to Order: 10:09 am

Time Adjourned: 10:43 am

(please circle if present)

Committee Members: Reps. Cooney, Gagnon, Osborne, L. Brown, Laliberte, Wheeler, Boisvert, Carlson, Lauterborn, Lewis, Schuett, Patten, Boyce, C. Soucy, J. Sullivan, Crisler, Ferrante, Perkins and Sterling.

Bill Sponsors: Rep. Osborne, Merr 12; Rep. Cooney, Graf 7; Rep. Hamm, Merr 4

TESTIMONY

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

Hearing, minutes on
HB 1174 Jan. 12, 2010

Hearing opened at 10:09 a.m.

Rep. Osborne introduced the bill.

Rep. C. Hamm, supports the bill, did not speak.

Barbara Annis, Warner Planning Bd, opposes the bill, especially section . Feels planning board members would have to make decisions that please the selectmen or could be in danger of being replaced. Boards should be diverse in order to deal with changing times. This bill, with no term limits, would make the planning boards rubber stamps for the selectmen.

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replacement is found.

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Ans.-It will be attached to this bill, but applies to RSA 35.

Rep. Crisler: If a town has a recreation director, would this apply.

Ans.- I don't think so, that would be an employee of the town.

Hearing closed at 10:43 a.m.

Respectfully submitted,

Rep. Dianne Schuett

Testimony

C. Johnston

Amendment to HB 1174

Proposed by New Hampshire Municipal Association

Amend the bill by replacing section 3 with the following:

3. New Paragraph; Terms of Local Land Use Board Members. Amend RSA 673:5 by inserting after paragraph II the following new paragraph:

III. The term of office for an appointed local land use board member shall begin on a date established by the appointing authority, or as soon thereafter as the member is qualified, and shall end 3 years after the date so established. If no successor has been appointed and qualified at the expiration of an appointed member's term, the member shall be entitled to remain in office until a successor has been appointed and qualified.

Amend the bill by inserting the following new section 4:

4. Local Land Use Board; Definition. Amend RSA 672:7 to read as follows:

672:7 Local Land Use Board. –“Local land use board” means a planning board, historic district commission, inspector of buildings, building code board of appeals, [ø] zoning board of adjustment, *or other board or commission authorized by RSA 673*, established by a local legislative body.

**TITLE III
TOWNS, CITIES, VILLAGE DISTRICTS,
AND UNINCORPORATED PLACES**

**CHAPTER 35-B
PUBLIC RECREATION AND PARKS**

Section 35-B:4

35-B:4 Recreation or Park Commission. – If any town, city, county, or village district decides that the above powers shall be exercised by a recreation or park commission, it shall consist of citizens of such town, city, county, or village district who shall serve without pay. In cities the citizens shall be appointed by the mayor or city council, subject to provisions of the city charter; in towns by the selectmen; and in other political subdivisions by the governing body of the subdivision. The persons initially appointed to the commission shall serve staggered terms. Their successors shall be appointed under the same appointing procedure for 3 years. Vacancies as they occur shall be filled by the appointing authority for the unexpired term. Any city or town may by ordinance or resolution provide that the mayor or a selectman, or councilman, shall be an ex officio member of the commission.

Source. 1979, 185:1. 1993, 29:1, eff. June 7, 1993. 1997, 53:3, eff. July 18, 1997.

TITLE III

TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

CHAPTER 35-B

PUBLIC RECREATION AND PARKS

Section 35-B:3

35-B:3 Officials and Powers. – The power conferred by RSA 35-B:1 may be exercised by a recreation or park commission or any other board or commission as authorized by the governing body of the political subdivision and charged with the responsibility of providing leisure-time services within the political subdivisions' jurisdiction. These powers may be divided as directed by the governing body. The commission shall have powers as are necessary to carry out the purpose for which it is created. These powers may include but not be restricted to the power:

I. To acquire, hold and dispose of real and personal property; provided, however, the disposal of any real property shall have prior approval of the appropriate legislative body.

II. To make contracts;

III. To grant concessions;

IV. To make charges for the use of facilities or for participation;

V. To make and enforce rules and regulations governing the use of property, facilities or equipment and the conduct of persons thereon;

VI. To contract with any municipal corporation, governmental or private agencies for the conduct of park and recreation programs;

VII. To operate jointly with other governmental units any facilities or property including participation in the acquisition; and

VIII. To hold trust or manage public property useful to the accomplishment of its objectives.

Source. 1979, 185:1, eff. Aug. 5, 1979. 1997, 53:1, 2, eff. July 18, 1997.

Amendment to HB 1174

Proposed by New Hampshire Municipal Association

Amend the bill by replacing section 3 with the following:

3. New Paragraph; Terms of Local Land Use Board Members. Amend RSA 673:5 by inserting after paragraph II the following new paragraph:

III. The term of office for an appointed local land use board member shall begin on a date established by the appointing authority, or as soon thereafter as the member is qualified, and shall end 3 years after the date so established. If no successor has been appointed and qualified at the expiration of an appointed member's term, the member shall be entitled to remain in office until a successor has been appointed and qualified.

Amend the bill by inserting the following new section 4:

4. Local Land Use Board; Definition. Amend RSA 672:7 to read as follows:

672:7 Local Land Use Board. --"Local land use board" means a planning board, historic district commission, inspector of buildings, building code board of appeals, [or] zoning board of adjustment, *or other board or commission authorized by RSA 673*, established by a local legislative body.

Voting Sheets

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB 1174

BILL TITLE: relative to terms for appointed town officials.

DATE: January 20, 2010

LOB ROOM: 301

Amendments:

Sponsor: Rep. OLS Document #: 2010 0200h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

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

Moved by Rep. Osborne

Seconded by Rep. Brown

Vote: 18-0 (Please attach record of roll call vote.)

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

Moved by Rep. Osborne

Seconded by Rep. Ferrante

Vote: 18-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 18-0

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,
Rep. Dianne E. Schuett
Rep. Dianne E. Schuett, Clerk

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB 1174

BILL TITLE: relative to terms for appointed town officials.

DATE:

1/20/2010

LOB ROOM: 301

Amendments:

Sponsor: Rep. Osborne OLS Document #: 2010-0200k
Sponsor: Rep. Brown OLS Document #:
Sponsor: Rep. OLS Document #:

Motions: OTP, ^{AM}OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: 18-0 (Please attach record of roll call vote.)

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

Moved by Rep. Osborne

Seconded by Rep. Ferrante

Vote: 18-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

YES
Patten/Sterling
(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Dianne E. Schuett, Clerk

MUNICIPAL AND COUNTY GOVERNMENT

Bill #: HB 1174 Title: re terms for appointed town officials

PH Date: 1/12/2010

Exec Session Date: 1/20/2010

Motion: Osborne - AM # ~~2010-0200k~~

Amendment #: #2010-0200k

MEMBER	YEAS	NAYS
Cooney, Mary R, Chairman	18	
Gagnon, Raymond G, V Chairman	1	
Osborne, Jessie L	2	
Brown, Larry	3	
Laliberte, Suzanne S	4	
Wheeler, Deborah	5	
Boisvert, Ronald R	6	
Carlson, Nancy L	absent	
Lauterborn, Elaine M	7	
Lewis, Robert D	absent	
Schuett, Dianne E, Clerk	8	
Patten, Betsey L	9	
Boyce, Laurie J	10	
Soucy, Connie M	11	
Sullivan, James M	12	
Crisler, Margaret M	13	
Ferrante, Beverly A	14	
Perkins, Amy Stasia	15	
Sterling, Franklin W	16	
CUNNINGHAM	17	
TOTAL VOTE:	18	0

MUNICIPAL AND COUNTY GOVERNMENT

Bill #: HB 1174 Title: re terms for appointed town officials & pay for members of rec. comm.
 PH Date: 1/20/2010 Exec Session Date: 1/20/2010

Motion: OTP/AM Amendment #: _____

MEMBER	YEAS	NAYS
Cooney, Mary R, Chairman	18	
Gagnon, Raymond G, V Chairman	1	
Osborne, Jessie L	2	
Brown, Larry	3	
Laliberte, Suzanne S	4	
Wheeler, Deborah	5	
Boisvert, Ronald R	6	
Carlson, Nancy L	absent	
Lauterborn, Elaine M	7	
Lewis, Robert D	absent	
Schuett, Dianne E, Clerk	8	
Patten, Betsey L	9	
Boyce, Laurie J	10	
Soucy, Connie M	11	
Sullivan, James M	12	
Crisler, Margaret M	13	
Ferrante, Beverly A	14	
Perkins, Amy Stasia	15	
Sterling, Franklin W	16	
CUNNINGHAM	17	
TOTAL VOTE:	18	0

Committee Report

CONSENT CALENDAR

January 21, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on MUNICIPAL AND COUNTY
GOVERNMENT to which was referred HB1174,**

AN ACT relative to terms for appointed town officials.

**Having considered the same, report the same with the
following amendment, and the recommendation that
the bill OUGHT TO PASS WITH AMENDMENT.**

Rep. Jessie L Osborne

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	MUNICIPAL AND COUNTY GOVERNMENT
Bill Number:	HB1174
Title:	relative to terms for appointed town officials.
Date:	January 21, 2010
Consent Calendar:	YES
Recommendation:	OUGHT TO PASS WITH AMENDMENT

STATEMENT OF INTENT

This bill provides that the term of an appointed official continues until a successor is appointed and qualified. It also permits municipalities to pay members of a recreation or park commission.

Vote 18-0.

Rep. Jessie L Osborne
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

MUNICIPAL AND COUNTY GOVERNMENT

HB1174, relative to terms for appointed town officials. **OUGHT TO PASS WITH AMENDMENT.**
Rep. Jessie L Osborne for MUNICIPAL AND COUNTY GOVERNMENT. This bill provides that the term of an appointed official continues until a successor is appointed and qualified. It also permits municipalities to pay members of a recreation or park commission. **Vote 18-0.**

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

COMMITTEE: MUNICIPAL & COUNTY GOVT

BILL NUMBER: HB 1174

TITLE: re terms for appointed town officials

DATE: 1/30/2010 CONSENT CALENDAR: YES NO

OUGHT TO PASS

OUGHT TO PASS W/ AMENDMENT

INEXPEDIENT TO LEGISLATE

INTERIM STUDY (Available only 2nd year of biennium)

Amendment No.

2000-0200h

STATEMENT OF INTENT:

This bill provides that the term of an appointed official continues until a successor is appointed and qualified. It also permits municipalities to pay members of a recreation or parks Commission

COMMITTEE VOTE: 18-0

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Osborne

For the Committee