

Bill as Introduced

HB 1176-LOCAL - AS INTRODUCED

2010 SESSION

10-2580

06/03

HOUSE BILL ***1176-LOCAL***

AN ACT relative to town auditors.

SPONSORS: Rep. Nevins, Rock 15

COMMITTEE: Municipal and County Government

ANALYSIS

This bill requires the selectmen to ensure that an annual audit is conducted by a certified public accountant when either the town manager or the town clerk also acts as the town tax collector.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to town auditors.

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

1 1 New Paragraph; Financial Duties. Amend RSA 41:9 by inserting after paragraph VI the
2 following new paragraph:

3 VI-a. The selectmen shall ensure that a town audit is completed on an annual basis by a
4 professional accounting firm or a certified public accountant whenever either the town manager or
5 the town clerk also acts as the town tax collector.

6 2 New Section; Professional Audit. Amend RSA 41 by inserting after section 32-a the following
7 new section:

8 41:32-b Professional Audit. Notwithstanding RSA 41:32-a, when either the town manager or
9 the town clerk also acts as the town tax collector, the selectmen shall ensure that a town audit is
10 completed on an annual basis by a professional accounting firm or a certified public accountant.

11 3 Effective Date. This act shall take effect January 1, 2011.

Hearing Minutes

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON HB 1176

BILL TITLE: relative to town auditors.

DATE: February 2, 2010

LOB ROOM: 301 **Time Public Hearing Called to Order:** 10:34 am

Time Adjourned: 11:00 am

(please circle if present)

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

Bill Sponsors: Rep. Nevins, Rock 15

TESTIMONY

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

Rep. Nevins, sponsor, introduced the bill. This bill would provide a check on towns where one person serves in many positions and has unchecked access to town funds.

Frederick Welch, Town of Hampton. Supports the bill. Requested this bill because of incidents such as Ashland, where the same person served as manager and tax collector that allowed her to write checks and cash them. Feels this protection is needed in any town that has a town manager. Recounted several instances of embezzlement that went on for some time unchecked. Feels this remedy is the most cost effective one.

Rep. Osborne: Isn't it dangerous to have one person serving in many positions? Ans. - Yes, I think one person should not have so much control. Though it is difficult for some towns to function without that. This is the mildest thing I could think of to provide some control.

Barbara Reid, NH Mun Assoc. Opposes the bill. One major concern is towns where the manager also serves as Tax Collector. Currently there are only four in the state. Three of those have annual audits and the other does regular checking. There are some who have Tax collector and Town Clerk as same person. We certainly encourage training and regular audits. There are alternatives that towns can use outside examiners during the year rather than having a costly audit. Also pointed out that audits are necessarily after the fact so just trace the illegal acts rather than catch in a timely way or prevent. Feels that is a more proactive step to avoid fraud. We use the case in Ashland as part of our training of things towns can institute to prevent that type of fraud.

Rep. Osborne: Should these positions be combined or be a conflict of interest. Would that prevent some of these cases. Ans.- I would say tax collector acting as town manager or town clerk as in Ashland was the problem. When it is town manager serving in those positions where money is handled, that invites problems. As I said, though, there are only four towns currently in that situation.

Rep. Cooney: How many towns have town administrator rather than town manager? Ans.- I don't have that. Town administrator answers to the board of selectmen same as all other departments, as opposed to town manager who is over all other town departments.

Rep. Boyce: Is town manager like a mayor. Ans.-No, more like a city manager.

Rep. Wheeler: Would you believe my town has a town administrator and still had an incident? Ans.-Yes, there are a variety of arrangements that are at risk.

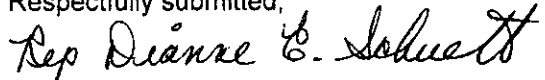
Rep. Wheeler: It is also usually someone who is above reproach who does this. Ans.-Yes, it is. We are concerned about the costs to smaller communities though.

Rep. Brown: The open tracking and controls are more important than the audits. Ans.-That's true, but towns that have regular audits have a good deterrence.

Rep Cooney: In a town of 3000 to 5000 what would an audit cost? Ans.- Approx \$12,000 to \$15,000; mid-sized communities \$20,000 to \$25,000. A lot depends on the quality of the records also. We are trying in our training to assist towns to get their records in shape for audits.

Rep. Lauterborn: Could this be seen as a 28-A problem. Ans. - Yes it could.

Respectfully submitted,



Rep. Dianne E. Schuett,
Clerk

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON HB 1176

BILL TITLE: relative to town auditors.

DATE: 2/2/2010

LOB ROOM: 301

Time Public Hearing Called to Order: 10:34 am

Time Adjourned: 11:00 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 Cunningham.

Bill Sponsors: Rep. Nevins, Rock 15

TESTIMONY

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

Hearing, minutes on
HB 1176 Feb. 2, 2010

Hearing opened at 10:34 a.m.

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city manager.

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Rep. Lauterborn: Could this be seen as a 28-A problem. Ans. - Yes it could.

Hearing closed at 11:00 a.m.

Respectfully submitted,

Rep. Dianne E. Schuett,
clerk

Testimony

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

CHAPTER 41 CHOICE AND DUTIES OF TOWN OFFICERS

Selectmen

HB 1176

Section 41:9

41:9 Financial Duties. –

- I. The selectmen shall pay all sums of money received by them in behalf of the town to the town treasurer immediately after receipt, and state to him from whom and for what received.
- II. They shall draw orders upon the treasurer for the payment of all accounts and claims against the town allowed by them, and take proper vouchers therefor.
- III. They shall keep a fair and correct account of all moneys received, all accounts and claims settled and all orders drawn by them, and of all their other financial transactions in behalf of the town.
- IV. They shall publish in the next annual report, or post at the annual meeting, the general fund balance sheet from the most recently completed audited financial statements or from the financial report filed pursuant to RSA 21-J:34, V.
- V. In the case of an accumulated general fund deficit, the selectmen shall insert an article in the warrant recommending such action as they deem appropriate, which may include, but is not limited to, raising a sum of money for the purpose of reducing that deficit.
- VI. The selectmen shall be responsible for establishing and maintaining appropriate internal control procedures to ensure the safeguarding of all town assets and properties.
- VII. The selectmen shall annually review and adopt an investment policy for the investment of public funds in conformance with applicable statutes and shall advise the treasurer of such policies.
- VIII. The selectmen shall be responsible for establishing procedures to ensure that all funds paid to the town from any department shall be remitted to the treasurer at least on a weekly basis or daily whenever such funds total \$500 or more. Remittances to the treasurer from the tax collector shall be in accordance with RSA 41:35 and remittances from the town clerk shall be in accordance with RSA 261:165.

Source. 1869, 26:3. 1874, 85:1. GL 40:9. PS 43:7. PL 47:14. RL 59:13. RSA 41:9. 1993, 181:1. 1994, 147:2, eff. July 22, 1994. 2007, 246:2, eff. Aug. 27, 2007.

HB 1176

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

**CHAPTER 41
CHOICE AND DUTIES OF TOWN OFFICERS**

Town Auditors

Section 41:32-a

41:32-a Election. – Any town may, under an article in the warrant for the annual town meeting vote to elect a board of 2 or more auditors for the terms as herein provided. The terms of office shall be staggered so that after the year of adoption one auditor shall be chosen for a term of office for the same number of years as there are auditors on the board, provided however that in the year of adoption the members of the board shall be chosen for varying terms so that the term of one member shall expire in the next succeeding year, the term of the second member, the next year, and so on for the number of years, as there are members on the board. The board of auditors shall perform the duties set forth for auditor in RSA 41:31. If a town has adopted an official ballot for the election of its officers the election of a board of auditors shall not take place until the annual town meeting following the town meeting at which the provisions of this section are adopted.

7 **Source.** 1959, 82:1, eff. July 5, 1959.

Voting Sheets

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB 1176-LOCAL

BILL TITLE: relative to town auditors.

DATE: February 16, 2010

LOB ROOM: 301

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

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

Moved by Rep. Sterling

Seconded by Rep. Brown

Vote: 15-0 (Please attach record of roll call vote.)

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

Moved by Rep.

Seconded by Rep.

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

CONSENT CALENDAR VOTE: Yes-vv

(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 1176-LOCAL

BILL TITLE: relative to town auditors.

DATE: 2/16/2010

LOB ROOM: 301

Amendments:

Sponsor: Rep. OLS Document #:

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Sponsor: Rep. OLS Document #:

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

Moved by Rep. *Sterling*

Seconded by Rep. *Brown*

Vote: 15-0 (Please attach record of roll call vote.)

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

Moved by Rep.

Seconded by Rep.

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

CONSENT CALENDAR VOTE:

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

Statement of Intent: Refer to Committee Report *Sterling Lauterborn*

Respectfully submitted,

Rep. Dianne E. Schuett, Clerk

MUNICIPAL AND COUNTY GOVERNMENT

Bill #: HB 1176 Title: re town auditors

PH Date: 2/2/2010

Exec Session Date: 2/16/2010

Motion: _____ Amendment #: _____

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

Committee Report

CONSENT CALENDAR

February 17, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on MUNICIPAL AND COUNTY

GOVERNMENT to which was referred HB1176-L,

**AN ACT relative to town auditors. Having considered
the same, report the same with the following**

**Resolution: RESOLVED, That it is INEXPEDIENT TO
LEGISLATE.**

Rep. Franklin W Sterling

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	MUNICIPAL AND COUNTY GOVERNMENT
Bill Number:	HB1176-L
Title:	relative to town auditors.
Date:	February 17, 2010
Consent Calendar:	YES
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

The purpose of this bill was to ensure that an audit of a town's finances be completed on a yearly basis when the town clerk or the town manger also was the tax collector. The intention being that an outside audit was completed to ensure that there were no irregularities in the handling of the town's funds.

The committee believed that the purpose of this bill was covered equally well by the more comprehensive changes proposed in HB 1448 which the committee has recommended as OTP-A.

Vote 15-0.

Rep. Franklin W Sterling
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

MUNICIPAL AND COUNTY GOVERNMENT

HB1176-L, relative to town auditors. **INEXPEDIENT TO LEGISLATE.**

Rep. Franklin W Sterling for MUNICIPAL AND COUNTY GOVERNMENT. The purpose of this bill was to ensure that an audit of a town's finances be completed on a yearly basis when the town clerk or the town manger also was the tax collector. The intention being that an outside audit was completed to ensure that there were no irregularities in the handling of the town's funds.

The committee believed that the purpose of this bill was covered equally well by the more comprehensive changes proposed in HB 1448 which the committee has recommended as OTP-A.
Vote 15-0.

COMMITTEE REPORT

COMMITTEE: MUNICIPAL & COUNTY GOVT.

BILL NUMBER: HB 1176

TITLE: relative to town auditors.

DATE: 2/16/2010 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.

STATEMENT OF INTENT:

COMMITTEE VOTE: 15-0

RESPECTFULLY SUBMITTED,

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

Rep. _____

For the Committee

Sterling

The purpose of HB 1176 was to ensure that an audit of a town's finances be completed on a yearly basis when the town clerk or the town manger also were the tax collector. The intention being that an outside audit was completed to ensure that there were no irregularities in the handling of the town's funds.

The committee believed that the purpose of this bill was covered equally well by the more comprehensive changes proposed in HB 1448 which the committee has recommended as OTP-A.