

Bill as Introduced

HB 1564 - AS INTRODUCED

2010 SESSION

10-2633
10/09

HOUSE BILL **1564**

AN ACT relative to the regulation of attorneys by the supreme court and eliminating the requirement that the county attorney be a member of the New Hampshire bar.

SPONSORS: Rep. Ingbretson, Graf 5

COMMITTEE: Judiciary

ANALYSIS

This bill establishes the authority and procedure for the regulation of attorneys by the supreme court.

This bill also removes the requirement in the election or appointment of the county attorneys that the person be a member of the state bar.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 the regulation of attorneys by the supreme court and eliminating the requirement that the county attorney be a member of the New Hampshire bar.

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

1 Attorneys and Counselors. RSA 311 is repealed and reenacted to read as follows:

2 CHAPTER 311

3 ATTORNEYS

4 311:1 Admission to Practice; Regulation of Attorneys.

5 I. The supreme court shall regulate the practice of law by attorneys and their admission to
6 practice law in New Hampshire. It shall have continuing supervisory authority over attorneys
7 practicing before courts and agencies in this state, and may assess fees for the purpose of regulating
8 the practice of law and for disciplinary investigations, hearings, and enforcement.

9 II. Any citizen of the age of 18 years, of good moral character and suitable qualifications, on
10 application to the supreme court and upon meeting the requirements of the supreme court shall be
11 admitted to practice law as an attorney.

12 III. The supreme court shall adopt rules for the regulation of attorneys, including procedures
13 for admission and examination, establishing all fees, disciplinary procedures, and other matters
14 necessary for administration of this chapter.

15 311:2 Right to Appear.

16 I. A party in any cause or proceeding may appear, plead, prosecute, or defend in his or her
17 proper person, that is, pro se, or may be represented by any citizen of good character. For the
18 purposes of this section, a citizen shall be presumed to be of good character unless demonstrated
19 otherwise.

20 II. No person shall act as attorney in any cause in which the person has acted as judge.

21 311:3 Oath.

22 I. Every attorney admitted to practice shall take and subscribe, in open court, the oaths to
23 support the constitution of this state and of the United States, and the oath of office in the following
24 form: You solemnly swear or affirm that you will do no falsehood, nor consent that any be done in
25 the court, and if you know of any, that you will give knowledge thereof to the justices of the court, or
26 some of them, that it may be reformed; that you will not wittingly or willingly promote, sue, or
27 procure to be sued any false or unlawful suit, nor consent to the same; that you will delay no person
28 for lucre or malice, and will act in the office of an attorney within the court according to the best of
29 your learning and discretion, and with all good fidelity as well to the court as to your client. So help
30 you God or under the pains and penalty of perjury.

1 II. No person shall be permitted commonly to practice in New Hampshire as an attorney
2 unless he or she has been admitted by the court and taken the oath prescribed in paragraph I.

3 311:4 Discipline; Disbarment. The supreme court shall inquire in a summary manner into any
4 charges of fraud, malpractice, or contempt of court against an attorney, and, upon satisfactory
5 evidence of the attorney's guilt, shall suspend such attorney from practice, or may disallow or revoke
6 the authority to practice law in New Hampshire.

7 311:5 Effect of Suspension. No person while suspended from practice pursuant to RSA 311:4, or
8 until the person's restoration to status in the state bar, shall be permitted to practice law in
9 New Hampshire.

10 311:6 Practice by Corporations Prohibited. No corporation shall practice or appear as an
11 attorney in any court in the state or before any judicial body or hold itself out to the public or
12 advertise as being entitled to practice law, and no corporation shall draw agreements, or other legal
13 documents not relating to its lawful business, or draw wills, or practice law, or give legal advice or
14 legal information as an attorney, or hold itself out in any manner as being entitled to do any of the
15 foregoing acts, by or through any person orally or by advertisement, letter, or circular; provided that
16 the foregoing prohibition shall not prevent a corporation from employing an attorney in regard to its
17 own affairs or in any litigation to which it is or may be a party. Any person violating any provisions
18 of this section shall be guilty of a felony. Any natural person, including every officer, agent, or
19 employee of any such corporation, who, on its behalf, directly or indirectly engages in any of the acts
20 herein prohibited or assists such corporation to do such prohibited acts shall be guilty of a
21 misdemeanor. The term "corporation" as used in this section shall not include a corporation of
22 attorneys organized as a professional association under the provisions of RSA 294-A.

23 311:7 Lien on Verdict. From the commencement of an action, bill in equity, or other proceeding
24 in any court, the filing of a counterclaim or plea in set-off or recoupment, or appearance in any
25 proceeding before any state or federal department, board, or commission, the attorney who appears
26 for a client in such proceeding shall have a lien for reasonable fees and expenses upon the client's
27 cause of action, upon the judgment decree or other order in the client's favor entered or made in such
28 proceeding, and upon the proceeds derived therefrom. The lien cannot be affected by any settlement
29 between the parties before or after the judgment decree or other order. Upon the request of the
30 client or the attorney, the court in which the proceeding is pending, or, if the proceeding is not
31 pending in a court, the superior court, may determine and enforce the lien; provided that this section
32 shall not apply to matters arising under RSA 282-A and any case where the method of determination
33 of attorneys' fees is otherwise expressly provided by statute.

34 **Unauthorized Practice of Law**

35 311:8 Definitions. In this subdivision:

36 I. "Bar association" means a professional society that may be a corporation for attorneys who
37 are licensed by the supreme court and admitted to practice law in New Hampshire.

38 II. "Person" means an individual, corporation, partnership, or association.

1 311:9 Petition for Injunction. Upon the attorney general's own information or upon complaint of
2 any person, including any judge or any organized bar association in this state, the attorney general
3 may maintain an action for injunctive relief in the supreme or superior court against any person who
4 renders, offers to render, or holds himself or herself out as rendering any service which constitutes
5 the unauthorized practice of the law. Any organized bar association in this state may intervene in
6 the action, at any stage of the proceeding, for good cause shown.

7 311:10 Investigation by Attorney General.

8 I. The attorney general may investigate any complaint of unauthorized practice of the law
9 and the attorney general, or a deputy attorney general or an assistant attorney general designated
10 by the attorney general, may subpoena witnesses, compel their attendance, examine them under
11 oath, and require the production of any relevant documentary evidence.

12 II. The laws relating to the attendance of witnesses in civil actions and the payment of their
13 fees and expenses to those witnesses shall apply to investigations made by the attorney general.

14 III. If a person fails or refuses to obey a subpoena or to testify as to any material matter
15 regarding which the person may be interrogated, the superior court, upon application by the
16 attorney general, may issue to the person an order requiring the person to appear before the
17 attorney general, or a deputy attorney general or an assistant attorney general designated by the
18 attorney general, to produce documentary evidence or testify. Failure to obey the order of the court
19 may be punished by the court as a contempt of court.

20 IV. When requested, public officers, their assistants, clerks, or employees shall furnish to
21 the attorney general, the deputy, or an assistant attorney general designated by the attorney general
22 all information and assistance.

23 V. Investigations under this section shall be confidential. Any person participating in the
24 investigation who, except as required in the discharge of the person's official duties, discloses to any
25 person, other than to a person under investigation, the name of any person under investigation or any
26 witness examined, or any other information obtained in the investigation is guilty of a misdemeanor.

27 VI. Every person whose conduct is investigated under this section shall be furnished with a
28 written specification of the issues which are to be considered, and shall be given an opportunity to
29 present evidence and be heard upon the specified issues.

30 311:11 Remedies and Procedures Additional to Those Now Existing. The remedies and
31 procedures provided in this subdivision are in addition to and not in substitution for other available
32 remedies and procedures.

33 2 Child Support Enforcement. Amend RSA 161-B:2, X to read as follows:

34 X. "Licensing board" means any department, bureau, board, commission, [~~bar-association~~]
35 **branch of government**, state agency, or municipality, or other licensor that has authority to issue
36 licenses authorizing a person to engage in a business, occupation, profession, or industry, to operate
37 a motor vehicle, or to engage in hunting, fishing, or trapping.

1 3 Judicial Council. Amend RSA 494:1, VIII and IX to read as follows:

2 VIII. Eight other members appointed by the governor and council, 3 of whom shall be
3 ~~[members of the New Hampshire Bar Association]~~ **attorneys** of wide experience who have been
4 admitted to practice in the state for more than 5 years, and 5 of whom shall be lay persons; and

5 IX. Five other members appointed by the chief justice of the supreme court, 3 of whom shall
6 be ~~[members of the New Hampshire Bar Association]~~ **attorneys** of wide experience who have been
7 admitted to practice in the state for more than 5 years, and 2 of whom shall be lay persons.

8 4 Public Defenders. Amend RSA 604-B:4 to read as follows:

9 604-B:4 Contract. The state of New Hampshire, by the judicial council and with the approval of
10 governor and council, shall contract with any organization or groups of lawyers ~~[approved by the~~
11 ~~board of governors of the New Hampshire Bar Association]~~ to operate the public defender program
12 and provide public defender representation as provided in RSA 604-B:2 and 3. The contract shall fix
13 the number of defender attorneys providing representation in each county and shall permit the
14 public defender program to subcontract for attorney services, including appellate services, as may be
15 necessary to provide such representation. No such contract shall be effective for longer than 2 years.
16 The compensation for operation of the public defender program shall be such sums as may be fixed
17 by the contract, subject to the appropriations made therefor.

18 5 Reference Change. Amend RSA 161-C:3-f to read as follows:

19 161-C:3-f Child Support Insurance Settlement Intercept. The department may provide certain
20 information to public agencies or its contracted agents in order to intercept insurance settlement
21 payments or judgments claimed by individuals who are subject to a child support lien pursuant to
22 RSA 161-C and who owe past-due support. The department may identify such individuals by name,
23 last 4 digits of the individual's social security number or other taxpayer identification number, date
24 of birth, last known address, employer, or any combination thereof. Any information provided by the
25 department in accordance with this section shall remain the property of the state of New Hampshire
26 and shall be purged by any public agency or contracted agent receiving said information upon
27 completion of the data match exchange. The department may perform an audit to insure that any
28 public agency or contracted agent has purged said information. The specific penalty for failure to
29 purge the information shall be set forth in any contract or agreement between the department and
30 any public agency or contracted agent made pursuant to this section. Any transaction cost incurred
31 by the department related to the data match exchange shall be directly recovered by the department
32 from any insurance settlement or judgment proceeds. Insurance settlement payments for casualty
33 loss to personal or real property, past or future medical treatment, and a pro-rated amount equal to
34 185 percent of the self-support reserve defined in RSA 458-C:2, X for the period of lost work for
35 which the settlement or judgment constitutes recovery shall be exempt from this section.
36 Reasonable attorney fees and expenses related to obtaining the insurance settlement or judgment
37 shall be exempt from this section pursuant to RSA ~~[311:13]~~ **311:7**. Any settlement, payment, or
38 judgment received under the provision of this section shall be held by the department for 60 days
39 prior to its release or distribution unless otherwise agreed to by the parties.

1 6 Reference Change. Amend RSA 161-C:11, I to read as follows:

2 I. Except as provided in paragraph II of this section, any property otherwise exempt from
3 trustee process, attachment and execution shall be exempt from an order to withhold and deliver,
4 administrative seizure and disposition, and lien and foreclosure. Insurance settlement payments for
5 casualty loss to personal or real property and past or future medical treatment shall be exempt from
6 this section. Reasonable attorney fees and expenses related to obtaining the insurance settlement or
7 judgment shall be exempt from this section pursuant to RSA ~~[311:13]~~ **311:7**.

8 7 Reference Change. Amend RSA 292:1-a to read as follows:

9 292:1-a Legal Services. Five or more persons of lawful age may associate together by articles of
10 agreement to form a corporation, without a capital stock, for the purpose of providing professional
11 legal services to the poor; provided, however, that no such corporation shall commence business until
12 its articles of agreement and by-laws, and such other information as may be required, have been
13 submitted to the supreme court for approval and such court has authorized it to commence business
14 upon finding that it is a responsible organization. Such authorization may, after hearing, be revoked
15 or suspended by the court for just cause. The actual practice of law by such corporation shall be
16 conducted solely by members of the New Hampshire bar in good standing, and the fact of
17 incorporation shall not in any way be deemed to immunize any attorney employed by the corporation
18 from personal responsibility and liability to the clients whom he serves. The provisions of
19 RSA ~~[311:11]~~ **311:6** shall not apply to corporations organized under this section.

20 8 Reference Change. Amend RSA 503:11, I to read as follows:

21 I. Notwithstanding RSA ~~[311:11]~~ **311:6**, and to the extent not inconsistent with court rules,
22 an officer, employee, partner, owner or trustee, as applicable, of a corporation, partnership, limited
23 liability company, or trust who presents written authorization and who is not an attorney but is
24 appearing for the organization, may represent the organization in an action cognizable as a small
25 claim under this chapter before a district or municipal court for the purposes of entering a plea or
26 answer on behalf of the organization, or otherwise representing the organization during the course of
27 the small claim proceeding.

28 9 County Attorneys; Bar Membership. Amend RSA 7:33 to read as follows:

29 7:33 Election; Temporary Vacancies. There shall be a county attorney for each county~~[-who~~
30 ~~shall be a member of the New Hampshire bar,]~~ elected biennially by the voters of the county. If the
31 county attorney is absent at any term of court or unable to discharge the duties of the office, the
32 superior court, acting as a body, shall appoint a county attorney~~[-who shall be a member of the~~
33 ~~New Hampshire bar,]~~ for the time being and allow said appointee such compensation for his or her
34 services as set by the county delegation.

35 10 Severability. If any provision of this act or the application thereof to any person or
36 circumstances is held invalid, such invalidity shall not affect other provisions or applications hereof
37 which can be given effect without the invalid provisions or application, and to this end the provisions
38 of this act are severable.

39 11 Effective Date. This act shall take effect July 1, 2010.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HB 1564

BILL TITLE: relative to the regulation of attorneys by the supreme court and eliminating the requirement that the county attorney be a member of the New Hampshire bar.

DATE: January 21, 2010

LOB ROOM: 208 **Time Public Hearing Called to Order:** 1:00 p.m. 1540

Time Adjourned: 2:25 pm

(please circle if present)

Committee Members: Reps. D. Cote, Wall, Potten, Hackel, P. Preston, G. Richardson, L. Weber, B. Browne, Nixon, Thompson, Watrous, Rowe, N. Elliott, DiFruscia, W. O'Brien, Hagan, L. Perkins, Silva, W. Smith and Meadows and Read.

Bill Sponsors: Rep. Ingbretson, Graf5

TESTIMONY

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

***Rep Al Baldasaro**, introducing for sponsor
Reading testimony.

Rep. Nancy Elliott: Judges have to belong to Bar? Ans. Yes Q. Constitutional issue? Ans. Y.

Rep. Robert Mead: Does Constitution forbid state monopolies? Ans. The Bar is a monopoly.

Rep Dan Itse, supports
Important to understand Articles 37, Part I Separation of powers is not absolute. Independent judicial is only 40 years old. Legislature has created counts, such as the Family Court.

***Harold Brown**, Haverhill - supports
Quotes from written testimony.

Rep. Janet Wall: Anybody can handle county attorney cases? Ans. Yes, it is more management. Everybody should have a right to that office.

Rep. Paul Ingbretson, sponsor
Most New England states do not have a unified bar requirement. Mixing of private organization and public business. It's a monopoly. Why should attorneys be forced to join? We need balance between governmental bodies, but also checks. Unified Bar creates a monopoly. Attorneys should not work for the court or a private association.

Rep. Nancy Elliott: Should Bar books be open to the public? Ans. Yes.

DiFruscia: Does one still have to take bar exam? Ans. Yes. Q. Should there be a licensing board? Ans. Yes.

Rep. Robert Mead-: Should state funds to Bar require open book? Ans. Yes.

Paul Mirski: Enfield Center - supports

Doesn't know how the legislature can resolve a constitutional issue that everyone has a right to run for elective office. Conflict of Interest: justices administer the Bar. How can an attorney make a full and complete presentation, if the person to whom he is making a case is his boss? [This would be case where a complaint is being filed against a judge.] How do you protect the interests of the client? A lawyer can be called before the Professional Conduct Committee for complaining about a judge.

Rep. Robert Mead: Three of eight members of Judicial Council must be bar members.

John McIntosh, New Hampshire Bar 5000 members - opposed

Says that County Attorney should be very qualified. This is a de-unification bill. That debate has been on-going. That is a decision of the Supreme Court. The Bar in New Hampshire is unified. Half in country are unified. On New Hampshire, far more pro bono than states without unified bar. Bar association keeps track of information which the court otherwise have it (addresses etc). That cost is borne by members of Bar. 75% of lawyers preferred a unified Bar when polled.

Rep. Frances Potter: Would non-member be supervised as closely. Ans. Court has said you must belong.

Rep. Lawrence Perkins: Makeup of Judicial Conduct Committee? Ans. Majority not lawyers (a guess).

David Johnson, Londonderry-supports

Who is in charge? John Broderick, Chief Justice, he decides who is to serve as a lawyer. He ignores abuses of the Family Court. If you are an attorney and a member of the New Hampshire Bar, you will be disbarred for reporting an abuse by the judge in the court system. Claims three attorneys didn't want to come to this hearing to talk about it. Lawyers get punished for reporting crooked judges.

Rep. Robert Rowe: Would you believe, an attorney who does complain is a woose, but he agrees that the bar should be de-unified.

Sarah Brown, Belmont - supports

Joe Haas, Concord - opposes part of bill

Page 2, Line 10 will prohibit corporate clerks from representing corporations. Opposes this portion. Refers to his (years ago) case in Ashland.


Michael Brewster, Pittsfield - supports parts.

We should pass bill. We need an honest judicial system. What we have is a revenue cow.

Howard Zibel, General Council for Supreme Court & Judicial Branch - no position

Does not believe this bill de-unifies the Bar. Section 1: most important for Judiciary. Attorney General & New Hampshire Bar can bring a charge unauthorized practice claim. This bill would eliminate the Bar Association. County Attorney's qualifications are up to legislature, but if a county attorney were to be a member of the bar, he could not appear in court, could not sign documents. Chief Justice is not the head of the Bar. Bar run by president and board of governors. Has no tolerance for cowards, if something is wrong stand up and say it.

Respectfully submitted,



Philip Preston, Clerk

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FROM: Rep. Philip Preston, Clerk

DATE: Public hearing January 21, 2010

SUBJECT: Meeting minutes on HB 1564, relative to the regulation of attorneys by the supreme court and eliminating the requirement that the county attorney be a member of the New Hampshire bar.

HB 1564 relative to regulation of attorneys by the supreme court and eliminating bar requirement

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end 2:25 pm

Testimony

Mr. Chairman, members of the Judiciary Committee, fellow citizens. I am Harold Brown of Haverhill NH. House Bill 1564 will modify Chapter 7 section 33. This is an opportunity to correct an unconstitutional law, legislatively. Chapter 7 sec.33 states that only a member of the Bar Association can be a county attorney. This law has many illegal issues. I will address specific constitutional issues for the modification of Chapter 7 sec.33, as presented to you today.

1. Election to the position of county attorney should be the right of any qualified registered voter.
2. The only qualification for a registered voter is that he/she be of age and a resident of the district to be represented.
3. Presently, allowing only a Bar Association member to become a county attorney is a violation of the State Constitution's Article 83. Currently, Chapter 7: sec.33 has created a monopoly. Chapter 7 sec. 33 has established unfair competition to the public; or should I say no competition for a public office by non members of the Bar Association.
4. The present prohibition is a violation of the equal protection clause of the U.S. Constitution's 14th. Amendment. Chapter 7 sec.33 is denial of due process and equal protection.
5. Article 11 of the New Hampshire Constitution (part first, bill of rights, last sentence) states: 'Every inhabitant of the state, having the proper qualifications, has equal right to be elected into office.' The major qualification for elective office is to be a resident of the district to be represented. Being a member of any association, organization, fraternity or a corporation is not a qualification for public office.
6. Chapter 7 sec. 33 is arbitrary and capricious.

My recommendation in closing, is to approve HB 1564 giving the people authority via the ballot box, where it belongs.

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person for lucre or malice, and will act in the office of an attorney within the court according to the best of your learning and discretion, and with all good fidelity as well to the court as to your client. So help you God or under the pains and penalty of perjury.

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311:5 Effect of Suspension. No person while suspended from practice pursuant to RSA 311:4, or until the person's restoration to status in the state bar, shall be permitted to practice law in New Hampshire.

311:6 Practice by Corporations Prohibited. No corporation shall practice or appear as an attorney in any court in the state or before any judicial body or hold itself out to the public or advertise as being entitled to practice law, and no corporation shall draw agreements, or other legal documents not relating to its lawful business, or draw wills, or practice law, or give legal advice or legal information as an attorney, or hold itself out in any manner as being entitled to do any of the foregoing acts, by or through any person orally or by advertisement, letter, or circular; provided that the foregoing prohibition shall not prevent a corporation from employing an attorney in regard to its own affairs or in any litigation to which it is or may be a party. Any person violating any provisions of this section shall be guilty of a felony. Any natural person, including every officer, agent, or employee of any such corporation, who, on its behalf, directly or indirectly engages in any of the acts herein prohibited or assists such corporation to do such prohibited acts shall be guilty of a misdemeanor. The term "corporation" as used in this section shall not include a corporation of attorneys organized as a professional association under the provisions of RSA 294-A.

311:7 Lien on Verdict. From the commencement of an action, bill in equity, or other proceeding in any court, the filing of a counterclaim or plea in set-off or recoupment, or appearance in any proceeding before any state or federal department, board, or commission, the attorney who appears for a client in such proceeding shall have a lien for reasonable fees and expenses upon the client's cause of action, upon the judgment decree or other order in the client's favor entered or made in such proceeding, and upon the proceeds derived therefrom. The lien cannot be affected by any settlement between the parties before or after the judgment decree or other order. Upon the request of the client or the attorney, the court in which the proceeding is pending, or, if the proceeding is not pending in a court, the superior court, may determine and enforce the lien; provided that this section shall not apply to matters arising under RSA 282-A and any case where the method of determination of attorneys' fees is otherwise expressly provided by statute.

Unauthorized Practice of Law

311:8 Definitions. In this subdivision:

I. "Bar association" means a professional society that may be a corporation for attorneys who are licensed by the supreme court and admitted to practice law in New Hampshire.

II. "Person" means an individual, corporation, partnership, or association.

311:9 Petition for Injunction. Upon the attorney general's own information or upon complaint of any person, including any judge or any organized bar association in this state, the attorney general may maintain an action for injunctive relief in the supreme or superior court against any person who renders, offers to render, or holds himself or herself out as rendering any service which constitutes the unauthorized practice of the law. Any organized bar association in this state may intervene in the action, at any stage of the proceeding, for good cause shown.

311:10 Investigation by Attorney General.

I. The attorney general may investigate any complaint of unauthorized practice of the law and the attorney general, or a deputy attorney general or an assistant attorney general designated by the attorney general, may subpoena witnesses, compel their attendance, examine them under oath, and require the production of any relevant documentary evidence.

II. The laws relating to the attendance of witnesses in civil actions and the payment of their fees and expenses to those witnesses shall apply to investigations made by the attorney general.

III. If a person fails or refuses to obey a subpoena or to testify as to any material matter regarding which the person may be interrogated, the superior court, upon application by the attorney general, may issue to the person an order requiring the person to appear before the attorney general, or a deputy attorney general or an assistant attorney general designated by the attorney general, to produce documentary evidence or testify. Failure to obey the order of the court may be punished by the court as a contempt of court.

IV. When requested, public officers, their assistants, clerks, or employees shall furnish to the attorney general, the deputy, or an assistant attorney general designated by the attorney general all information and assistance.

V. Investigations under this section shall be confidential. Any person participating in the investigation who, except as required in the discharge of the person's official duties, discloses to any person, other than to a person under investigation, the name of any person under investigation or any witness examined, or any other information obtained in the investigation is guilty of a misdemeanor.

VI. Every person whose conduct is investigated under this section shall be furnished with a written specification of the issues which are to be considered, and shall be given an opportunity to present evidence and be heard upon the specified issues.

311:11 Remedies and Procedures Additional to Those Now Existing. The remedies and procedures provided in this subdivision are in addition to and not in substitution for other available remedies and procedures.

2 Child Support Enforcement. Amend RSA 161-B:2, X to read as follows:

X. "Licensing board" means any department, bureau, board, commission, ~~[bar-association]~~ **branch of government**, state agency, or municipality, or other licensor that has authority to issue licenses authorizing a person to engage in a business, occupation, profession, or industry, to operate a motor vehicle, or to engage in hunting, fishing, or trapping.

3 Judicial Council. Amend RSA 494:1, VIII and IX to read as follows:

VIII. Eight other members appointed by the governor and council, 3 of whom shall be ~~[members of the New Hampshire Bar Association]~~ **attorneys** of wide experience who have been admitted to practice in the state for more than 5 years, and 5 of whom shall be lay persons; and

IX. Five other members appointed by the chief justice of the supreme court, 3 of whom shall be ~~[members of the New Hampshire Bar Association]~~ **attorneys** of wide experience who have been admitted to practice in the state for more than 5 years, and 2 of whom shall be lay persons.

4 Public Defenders. Amend RSA 604-B:4 to read as follows:

604-B:4 Contract. The state of New Hampshire, by the judicial council and with the approval of governor and council, shall contract with any organization or groups of lawyers ~~[approved by the board of governors of the New Hampshire Bar Association]~~ to operate the public defender program and provide public defender representation as provided in RSA 604-B:2 and 3. The contract shall fix the number of defender attorneys providing representation in each county and shall permit the public defender program to subcontract for attorney services, including appellate services, as may be necessary to provide such representation. No such contract shall be effective for longer than 2 years. The compensation for operation of the public defender program shall be such sums as may be fixed by the contract, subject to the appropriations made therefor.

5 Reference Change. Amend RSA 161-C:3-f to read as follows:

161-C:3-f Child Support Insurance Settlement Intercept. The department may provide certain information to public agencies or its contracted agents in order to intercept insurance settlement payments or judgments claimed by individuals who are subject to a child support lien pursuant to RSA 161-C and who owe past-due support. The department may identify such individuals by name, last 4 digits of the individual's social security number or other taxpayer identification number, date of birth, last known address, employer, or any combination thereof. Any information provided by the department in accordance with this section shall remain the property of the state of New Hampshire and shall be purged by any public agency or contracted agent receiving said

information upon completion of the data match exchange. The department may perform an audit to insure that any public agency or contracted agent has purged said information. The specific penalty for failure to purge the information shall be set forth in any contract or agreement between the department and any public agency or contracted agent made pursuant to this section. Any transaction cost incurred by the department related to the data match exchange shall be directly recovered by the department from any insurance settlement or judgment proceeds. Insurance settlement payments for casualty loss to personal or real property, past or future medical treatment, and a pro-rated amount equal to 185 percent of the self-support reserve defined in RSA 458-C:2, X for the period of lost work for which the settlement or judgment constitutes recovery shall be exempt from this section. Reasonable attorney fees and expenses related to obtaining the insurance settlement or judgment shall be exempt from this section pursuant to RSA [311:13] 311:7. Any settlement, payment, or judgment received under the provision of this section shall be held by the department for 60 days prior to its release or distribution unless otherwise agreed to by the parties.

6 Reference Change. Amend RSA 161-C:11, I to read as follows:

I. Except as provided in paragraph II of this section, any property otherwise exempt from trustee process, attachment and execution shall be exempt from an order to withhold and deliver, administrative seizure and disposition, and lien and foreclosure. Insurance settlement payments for casualty loss to personal or real property and past or future medical treatment shall be exempt from this section. Reasonable attorney fees and expenses related to obtaining the insurance settlement or judgment shall be exempt from this section pursuant to RSA [311:13] 311:7.

7 Reference Change. Amend RSA 292:1-a to read as follows:

292:1-a Legal Services. Five or more persons of lawful age may associate together by articles of agreement to form a corporation, without a capital stock, for the purpose of providing professional legal services to the poor; provided, however, that no such corporation shall commence business until its articles of agreement and by-laws, and such other information as may be required, have been submitted to the supreme court for approval and such court has authorized it to commence business upon finding that it is a responsible organization. Such authorization may, after hearing, be revoked or suspended by the court for just cause. The actual practice of law by such corporation shall be conducted solely by members of the New Hampshire bar in good standing, and the fact of incorporation shall not in any way be deemed to immunize any attorney employed by the corporation from personal responsibility and liability to the clients whom he serves. The provisions of RSA [311:14] 311:6 shall not apply to corporations organized under this section.

8 Reference Change. Amend RSA 503:11, I to read as follows:

I. Notwithstanding RSA [311:14] 311:6, and to the extent not inconsistent with court rules, an officer, employee, partner, owner or trustee, as applicable, of a corporation, partnership, limited liability company, or trust who presents written authorization and who is not an attorney but is appearing for the organization, may represent the organization in an action cognizable as a small claim under this chapter before a district or municipal court for the purposes of entering a plea or answer on behalf of the organization, or otherwise representing the organization during the course of the small claim proceeding.

9 County Attorneys; Bar Membership. Amend RSA 7:33 to read as follows:

7:33 Election; Temporary Vacancies. There shall be a county attorney for each county~~[-who shall be a member of the New Hampshire bar,]~~ elected biennially by the voters of the county. If the county attorney is absent at any term of court or unable to discharge the duties of the office, the superior court, acting as a body, shall appoint a county attorney~~[-who shall be a member of the New Hampshire bar,]~~ for the time being and allow said appointee such compensation for his or her services as set by the county delegation.

10 Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications hereof which can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

11 Effective Date. This act shall take effect July 1, 2010.

Paul Ingretson

Intro:

This bill is asking you to oppose the requirement of the New Hampshire Judiciary that membership in an exclusive private association be a prerequisite for practicing law in New Hampshire. It was suggested to me by a constituent who pointed out that membership in a private club, the New Hampshire Bar Association is now infringing on other offices...not least which is the elective office of County Attorney. The bill addresses that situation as well.

General court noted this problem in the past and in 2003 passed legislation enabling attorneys a vote on having to belong to a unified bar as this forced membership is called. A referendum was held but before the ballots were counted the Supreme Court, the Chief Justice of which heads up the unified bar association, locked away the ballots (3-1) essentially declaring that the separation of powers and their authority over all things judicial trumps every other constitutional consideration. (This by the way from a court that has no problem legislating from the bench.) In their decision they talked of keeping down the corruption but we can see how that is working out. Problems of corruption and malfeasance of lawyers persists. Our Redress of Grievance Caucus has found evidence of widespread problems.

The unified bar itself, however, creates other dilemmas as well as conflicts with the constitution which, if you do the math seem a little mad. Especially when you know four other New England states fare very well without unified bars.

DOING THE MATH: LIST OF TRADEOFFS

1. Bizarre and unnecessary mixing of government and private associations
2. Private and not open to public inspection
3. Monopolies (see article 83) - Mason membership to be in construction example
4. Rights of association
5. Fear of testifying today...bad indicator
6. Independent representation...not possible when you have to look over your shoulder to the final arbiter of the law and your career
7. Article XIII: involuntary servitude
8. Consolidation of power (feared by Jefferson)
9. Muting of checks on other branch – not simple separation of powers

10. Inhibits application of Article 11 of the New Hampshire Constitution (part first, bill of rights, last sentence) which states: 'Every inhabitant of the state, having the proper qualifications, has equal right to be elected into office.' Being a member of a private association, now becomes a qualification for public office.

So here is the question?

Why trample other principles for an unnecessary and simplistic separation of powers position when you can, as one dissenter from the Supreme Court decision said, you can get the same results regarding a quality court system without it. Another dissenter to the decision, by the way, said unifying the Bar is not part of the inherent power of court anyway. In defending the unified BAR the Court claims an unwarranted monopoly on the justice system – notwithstanding the power of the people to jump right into their monopoly and impeach any or all of them or to redress grievances perpetrated in their courts. Article 37 (see below) shows no absolute separation nor does precedent.

Finally, Court management should not mean attorney management. Attorneys should work for us as private citizens and should in no way be beholden to Supremes or private associations except to behave honorably. Justice should be owned by the people and certainly answerable as much as possible to their elected representatives in the General Court. Anyone of good character should be allowed to represent you - and make a good living at it – not some monopoly club member. You should have the right to be represented by any person of good character of your choice – not a club member beholden to Supreme court chief justice.

Article 83, Part Second protection against all monopolies
Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it..... Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through

combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state;

[Art.] 37. [Separation of Powers.] In the government of this state, the three essential powers thereof, to wit, the legislative, executive, and judicial, ought to be kept as separate from, and independent of, each other, as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of union and amity.

June 2, 1784

Elected office should be open to all. Even Judges need not constitutionally be members of the bar. Why should prosecutors be club members when in all other ways they meet qualifications? Dictatorship of the Supremes

3. Presently, allowing only a Bar Association member to become a county attorney is a violation of the State Constitution's Article 83. Currently, Chapter 7: sec.33 has created a monopoly. Chapter 7 sec. 33 has established unfair competition to the public; or should I say no competition for a public office by non members of the Bar Association.

4. The present prohibition is a violation of the equal protection clause of the U.S. Constitution's 14th. Amendment. Chapter 7 sec.33 is denial of due process and equal protection.

5. Article 11 of the New Hampshire Constitution (part first, bill of rights, last sentence) states: 'Every `inhabitant of the state, having the proper qualifications, has equal right to be elected into office.' The major qualification for elective office is to be a resident of the district to be represented. Being a member of any association, organization, fraternity or a corporation is not a qualification for public office.

Mr. Chairman, members of the Judiciary Committee, fellow citizens. I am Harold Brown of Haverhill NH. House Bill 1564 will modify Chapter 7 section 33. This is an opportunity to correct an unconstitutional law, legislatively. Chapter 7 sec.33 states that only a member of the Bar Association can be a county attorney. This law has many illegal issues. I will address specific constitutional issues for the modification of Chapter 7 sec.33, as presented to you today.

1. Election to the position of county attorney should be the right of any qualified registered voter.
2. The only qualification for a registered voter is that he/she be of age and a resident of the district to be represented.
3. Presently, allowing only a Bar Association member to become a county attorney is a violation of the State Constitution's Article 83. Currently, Chapter 7: sec.33 has created a monopoly. Chapter 7 sec. 33 has established unfair competition to the public; or should I say no competition for a public office by non members of the Bar Association.
4. The present prohibition is a violation of the equal protection clause of the U.S. Constitution's 14th. Amendment. Chapter 7 sec.33 is denial of due process and equal protection.
5. Article 11 of the New Hampshire Constitution (part first, bill of rights, last sentence) states: 'Every inhabitant of the state, having the proper qualifications, has equal right to be elected into office.' The major qualification for elective office is to be a resident of the district to be represented. Being a member of any association, organization, fraternity or a corporation is not a qualification for public office.
6. Chapter 7 sec. 33 is arbitrary and capricious.

My recommendation in closing, is to approve HB 1564 giving the people authority via the ballot box, where it belongs.

Voting Sheets

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB 1564

BILL TITLE: relative to the regulation of attorneys by the supreme court and eliminating the requirement that the county attorney be a member of the New Hampshire bar.

DATE: February 2, 2010

LOB ROOM: 208

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. Nixon

Seconded by Rep. Wall

Vote: 11-8 (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: NO

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Philip Preston, Clerk

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB 1564

BILL TITLE: relative to the regulation of attorneys by the supreme court and eliminating the requirement that the county attorney be a member of the New Hampshire bar.

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Seconded by Rep. Wall

Vote: 11/8 (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.)~~

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Philip Preston, Clerk

JUDICIARY

Bill #: 1564 Title: _____

PH Date: ____/____/____ Exec Session Date: 02/02/10

Motion: ITL Amendment #: _____

MEMBER	YEAS	NAYS
Cote, David E, Chairman	Y	
Wall, Janet G, V Chairman	Y	
Potter, Frances D	Y	
Hackel, Paul L	Y	
Preston, Philip, Clerk	Y	
Richardson, Gary B	Y	
Weber, Lucy M	Y	
Browne, Brenden S <i>Read, Robin P</i>	Y	
Nixon, David L	Y	
Thompson, Robert B <i>des</i>		
Watrous, Rick H	Y	
Rowe, Robert H	Y	N
Elliott, Nancy J		N
DiFruscia, Anthony R	Y	
Mead, Robert D		N
O'Brien, William L		N
Hagan, Joseph M		N
Perkins, Lawrence B		N
Silva, Peter L		N
Smith, William B		N

TOTAL VOTE: YEAS 11 NAYS 8

Committee Report

REGULAR CALENDAR

February 9, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on JUDICIARY to which was referred HB1564,

AN ACT relative to the regulation of attorneys by the supreme court and eliminating the requirement that the county attorney be a member of the New Hampshire bar. Having considered the same, report the same with the following Resolution: RESOLVED, That it is INEXPEDIENT TO LEGISLATE.

Rep. David L Nixon

FOR THE MAJORITY OF THE COMMITTEE

MAJORITY COMMITTEE REPORT

Committee: JUDICIARY
Bill Number: HB1564
Title: relative to the regulation of attorneys by the supreme court and eliminating the requirement that the county attorney be a member of the New Hampshire bar.
Date: February 9, 2010
Consent Calendar: NO
Recommendation: INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

Non-judicial attempts to de-unify, or disintegrate, the State Bar have been tried no less than seven times since it was established by the Supreme Court in 1968 --- five times by a minority of legislators, once by a Constitutional Convention (1984), and once by dissenting members of the Bar. The Supreme Court has consistently ruled that such efforts are unconstitutional as violative of the separation of powers provision of New Hampshire's constitution, Pt I, Art. 37 (June 2, 1784). It is the court alone which has the power and the discretion to determine the form of the Bar. Unification of State Bar associations has also been upheld by the United States Supreme Court (496 US 1 [1990]). In addition, the argument that a unified bar is an "illegal monopoly", in violation of the Sherman Anti-Trust Act, has been ruled"without merit". Pet. Of RI. Bar Association, 374 A 2d 802 (1997). See also Petition of Tocci, 137, NH 131 (1993), stating that claims of illegal monopoly, etc., have ..."no merit" Id, @ 137-138. The unified New Hampshire Bar set up, funded and managed numerous public interest programs, such as legal services for the needy, pro bono (no legal fee) programs to prevent domestic violence, support educational programs, improve disciplinary mechanisms, and establish a public protection fund to assist citizens harmed by unethical lawyers. The bill would also repeal the law requiring county attorneys to be members of the bar. The decisions of the New Hampshire Supreme Court, and six prior legislatures, should be followed, and this bill rejected.

Vote 11-8

Original: House Clerk
Cc: Committee Bill File

Rep. David L Nixon
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

JUDICIARY

HB1564, relative to the regulation of attorneys by the supreme court and eliminating the requirement that the county attorney be a member of the New Hampshire bar. **INEXPEDIENT TO LEGISLATE.**

Rep. David L Nixon for the **Majority** of JUDICIARY. Non-judicial attempts to de-unify, or disintegrate, the State Bar have been tried no less than seven times since it was established by the Supreme Court in 1968 --- five times by a minority of legislators, once by a Constitutional Convention (1984), and once by dissenting members of the Bar. The Supreme Court has consistently ruled that such efforts are unconstitutional as violative of the separation of powers provision of New Hampshire's constitution, Pt I, Art. 37 (June 2, 1784). It is the court alone which has the power and the discretion to determine the form of the Bar. Unification of State Bar associations has also been upheld by the United States Supreme Court (496 US 1 [1990]). In addition, the argument that a unified bar is an "illegal monopoly", in violation of the Sherman Anti-Trust Act, has been ruled"without merit". Pet. Of Ri. Bar Association, 374 A 2d 802 (1997).

See also Petition of Tocci, 137, NH 131 (1993), stating that claims of illegal monopoly, etc., have ..."no merit" Id, @ 137-138. The unified New Hampshire Bar set up, funded and managed numerous public interest programs, such as legal services for the needy, pro bono (no legal fee) programs to prevent domestic violence, support educational programs, improve disciplinary mechanisms, and establish a public protection fund to assist citizens harmed by unethical lawyers. The bill would also repeal the law requiring county attorneys to be members of the bar. The decisions of the New Hampshire Supreme Court, and six prior legislatures, should be followed, and this bill rejected. **Vote 11-8.**

Original: House Clerk
Cc: Committee Bill File

REGULAR MAJORITY REPORT

HB 1564,

RECOMMENDATION: INEXPEDIENT TO LEGISLATE

VOTE: 11-8

REP. DAVID L. NIXON

Non-judicial attempts to de-unify, or disintegrate, the State Bar have been tried no less than seven times since it was established by the Supreme Court in 1968 --- five times by a minority of legislators, once by a Constitutional Convention (1989), and once by ~~dissent~~ members of the Bar. The Supreme Court has consistently ruled that such efforts are unconstitutional as violative of the separation of powers provision of New Hampshire's constitution, Pt I, Art. 37 (June 2, 1784). It is the court alone which has the power and the discretion to determine the form of the Bar. Unification of State Bar associations has also been upheld by the United States Supreme Court (496 US 1 [1990]). In addition, the argument that a unified bar is an "illegal monopoly", in violation of the Sherman Anti-Trust Act, has been ruled ... "without merit". Pet. Of RI. Bar Association, 374 A 2d 802 (1997). See also Petition of Tocci, 137 NH 131 (1993), stating that claims of illegal monopoly, etc. ~~have~~ "no merit" Id., @ 137-138. The unified New Hampshire Bar ~~has been~~ set up, funded and managed numerous public interest programs, such as legal services for the needy, pro bono (no legal fee) programs to prevent domestic violence, ~~to~~ support educational programs, ~~to~~ improve disciplinary mechanisms, and establish a public protection fund ~~to~~ assist citizens harmed by unethical lawyers. The bill would also repeal the law requiring county attorneys to be members of the bar. The decisions of the New Hampshire Supreme Court, and six prior ~~legislators~~, should be followed, and this bill rejected.

dissenting

have

legislators

and

REGULAR CALENDAR

February 9, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on JUDICIARY to which was referred HB1564,

AN ACT relative to the regulation of attorneys by the supreme court and eliminating the requirement that the county attorney be a member of the New Hampshire bar. Having considered the same, and being unable to agree with the Majority, report with the recommendation that the bill OUGHT TO PASS.

Rep. Robert D Mead

FOR THE MINORITY OF THE COMMITTEE

MINORITY COMMITTEE REPORT

Committee: JUDICIARY
Bill Number: HB1564
Title: relative to the regulation of attorneys by the supreme court and eliminating the requirement that the county attorney be a member of the New Hampshire bar.
Date: February 9, 2010
Consent Calendar: NO
Recommendation: OUGHT TO PASS

STATEMENT OF INTENT

HB 1564 seeks to remove the requirements that county attorneys be members of the state bar association for election or appointment. The minority believes that the New Hampshire Bar Association is a monopoly in violation of Article 83, Part Second that makes membership in the Association mandatory for all attorneys who seek to practice law in the State of New Hampshire. This power of monopoly illegally conferred on the Association has led to control of the legal system established by the New Hampshire Constitution to protect the rights of, and provide for, remedies and redress for its citizens. This control of our legal system is now managed by a corporation, whose officers are neither employees of the State, nor elected to their position by the citizens of New Hampshire.

Over time, various judicial branch administrative rulings, political patronage, and influence in governmental policy and practices have strengthened the monopolistic hold this private organization has on our legal system. They have been granted licensing authority equivalent to that of state and municipal agencies (RSA 161-B:2 X); they enjoy restrictions on certain executive branch appointments to Association members only (RSA 494:1 VIII, IX); and have subjected contracts issued for public defenders to the approval of its Board of Governors (RSA 604-B:4). At the same time, members of the New Hampshire Bar Association are exempt from the state licensing required of members of other professions, such as physicians, dentists, insurance agents, realtors, and the skilled trades. The administrative controls that have been woven into the fabric of our state government by this private fraternal organization strike at the very heart of representative government and the open legal system set forth by our constitution. To require County Attorneys to be members of this illegal monopoly deprives our citizens of candidates who otherwise meet all requirements for holding office as set forth by our county governments. The minority of the committee ask for a no vote to overturn the Judiciary Committee

Original: House Clerk
Cc: Committee Bill File

recommendation of inexpedient to legislate so a motion of ought to pass can be made.

Rep. Robert D Mead
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

JUDICIARY

HB1564, relative to the regulation of attorneys by the supreme court and eliminating the requirement that the county attorney be a member of the New Hampshire bar. **OUGHT TO PASS.** Rep. Robert D Mead for the **Minority** of JUDICIARY. HB 1564 seeks to remove the requirements that county attorneys be members of the state bar association for election or appointment. The minority believes that the New Hampshire Bar Association is a monopoly in violation of Article 83, Part Second that makes membership in the Association mandatory for all attorneys who seek to practice law in the State of New Hampshire. This power of monopoly illegally conferred on the Association has led to control of the legal system established by the New Hampshire Constitution to protect the rights of, and provide for, remedies and redress for its citizens. This control of our legal system is now managed by a corporation, whose officers are neither employees of the State, nor elected to their position by the citizens of New Hampshire.

Over time, various judicial branch administrative rulings, political patronage, and influence in governmental policy and practices have strengthened the monopolistic hold this private organization has on our legal system. They have been granted licensing authority equivalent to that of state and municipal agencies (RSA 161-B:2 X); they enjoy restrictions on certain executive branch appointments to Association members only (RSA 494:1 VIII, IX); and have subjected contracts issued for public defenders to the approval of its Board of Governors (RSA 604-B:4). At the same time, members of the New Hampshire Bar Association are exempt from the state licensing required of members of other professions, such as physicians, dentists, insurance agents, realtors, and the skilled trades. The administrative controls that have been woven into the fabric of our state government by this private fraternal organization strike at the very heart of representative government and the open legal system set forth by our constitution. To require County Attorneys to be members of this illegal monopoly deprives our citizens of candidates who otherwise meet all requirements for holding office as set forth by our county governments. The minority of the committee ask for a no vote to overturn the Judiciary Committee recommendation of inexpedient to legislate so a motion of ought to pass can be made.

Original: House Clerk
Cc: Committee Bill File

REGULAR MINORITY REPORT

HB 1564, relative to the regulation of attorneys by the supreme court and eliminating the requirement that the county attorney be a member of the New Hampshire bar.

RECOMMENDATION: OUGHT TO PASS

REP. ROBERT D. MEAD

HB 1564 seeks to remove the requirements that county attorneys be members of the state bar association for election or appointment. The New Hampshire Bar Association is a monopoly in violation of Article 83, Part Second that has made membership in the Association mandatory for all attorneys who want to practice law in the State of New Hampshire. This monopoly power illegally conferred the Association has led to a situation in which the legal system established by the New Hampshire Constitution to protect the rights of, and to provide remedies and redress for its citizens, to come under the indirect control of this corporation, whose officers are neither employees of the State, nor elected to their position by the citizens of New Hampshire. Over time, enactments and judicial branch administrative rulings, political patronage and undue influence in governmental policy and practice have been delegated to this private organization who have conferred licensing authority upon the Association equivalent to that of state and municipal agencies (RSA 161-B:2-X); have restricted certain executive branch appointments to Association members (RSA 494:1 VIII, IX); and have subjected contracts issued for public defenders to approval of its Board of Governors (RSA 604-B:4). At the same time, members of the New Hampshire Bar Association are exempt from the state licensing required of members of other professions, such as physicians, dentists, insurance agents, realtors, and the skilled trades. The administrative controls that have been woven into fabric of our state government by this private fraternal organization strike at the very heart of representative government and the open legal system set forth by our constitution. To require County Attorneys to be members of this illegal monopoly deprives our citizens of candidates who otherwise meet all requirements for holding office as set forth by our county governments. The minority of the committee asks for a vote to overturn the Judiciary Committee recommendation of inexpedient to legislate, so that a

The minority believes that the the NHBA

subsequent motion can be made.

OTD

House Bill 1564

Minority Opinion

HB 1564: AN ACT establishing the authority and procedure for the regulation of attorneys by the Supreme Court.

Rep. Bob Mead for the minority of Judiciary:

HB 1564 seeks to remove the requirements that county attorneys be members of the state bar association for election or appointment. The New Hampshire Bar Association is a monopoly in violation of Article 83, Part Second that has made membership in the Association mandatory for all attorneys who want to practice law in the State of New Hampshire. This monopoly power illegally conferred by the Association has led to a situation in which the legal system established by the New Hampshire Constitution to protect the rights of, and to provide remedies and redress for its citizens, to come under the indirect control of this corporation, whose officers are neither employees of the State, nor elected to their position by the citizens of New Hampshire. Over time, enactments and judicial branch administrative rulings, political patronage and undue influence in governmental policy and practice have been delegated to this private organization who have conferred licensing authority upon the Association equivalent to that of state and municipal agencies (RSA 161-B:2 X); have restricted certain executive branch appointments to Association members (RSA 494:1 VIII, IX); and have subjected contracts issued for public defenders to approval of its Board of Governors (RSA 604-B:4). At the same time, members of the New Hampshire Bar Association are exempt from the state licensing required of members of other professions, such as physicians, dentists, insurance agents, realtors, and the skilled trades. The administrative controls that have been woven into the fabric of our state government by this private fraternal organization strike at the very heart of representative government and the open legal system set forth by our constitution. To require County Attorneys to be members of this illegal monopoly deprives our citizens of candidates who otherwise meet all requirements for holding office as set forth by our county governments. The minority of the committee asks for a vote to overturn the Judiciary Committee recommendation of inexpedient to legislate ~~and a motion of vote of ought to pass can be made so we can remove this impediment to free and open government.~~

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Belongs
that