

Bill as Introduced

HB 1577-FN - AS INTRODUCED

2010 SESSION

10-2538

09/04

HOUSE BILL ***1577-FN***

AN ACT relative to court records research fees.

SPONSORS: Rep. Crisler, Rock 4

COMMITTEE: Judiciary

ANALYSIS

This bill limits court records research fees to \$5 per name.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

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

1 1 New Paragraph; Court Records Research Fees. Amend RSA 490:26-a by inserting after
2 paragraph II-a the following new paragraph:

3 II-b. Records research fees shall be established at a fee of no more than \$5 per name.

4 2 Effective Date. This act shall take effect 60 days after its passage.

LBAO
10-2538
12/07/09

HB 1577-FN - FISCAL NOTE

AN ACT relative to court records research fees.

FISCAL IMPACT:

The Judicial Branch states this bill will decrease state general fund revenue by \$105,706 in FY 2010 and \$422,826 in FY 2011 and each year thereafter. There is no fiscal impact on county and local revenue or state, county and local expenditures.

METHODOLOGY:

The Judicial Branch states this bill will add RSA 490:26-a,II-b to limit records research fees charged by the Branch to no more than \$5.00 per name. Effective August 1, 2009, the Branch began charging \$20 per name for up to five names with an additional \$5 for each name after the first five names. The Branch estimates it will collect \$681,660 annually in records research fees that will be deposited into the general fund. The Branch estimates that limiting the fee to \$5 per name will decrease general fund revenue by \$422,826 each year. Bill is to take effect 60 days after passage. Assuming bill takes effect by March of 2010, then FY 2010 revenue would decrease by \$105,706 ($\$422,826 * .25$).

Speakers

Hearing Minutes

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HB 1577-FN

BILL TITLE: relative to court records research fees
DATE: January 12, 2010
LOB ROOM: 208 **Time Public Hearing Called to Order:** 2:30 pm
Time Adjourned: 2:45 pm

(please circle if present)

Committee Members: Reps. ~~D. Cote~~, ~~Walt Potter~~, ~~Hackel~~, ~~P. Preston~~, G. Richardson, L. Weber, B. Browne, ~~Nixon~~, Thompson, ~~Watrous~~, ~~Rowe~~, N. Elliot, ~~DiFruscia~~, ~~W. O'Brien~~, Hagan, L. Perkins, ~~Silva~~, ~~W. Smith~~ and Mead.

Bill Sponsors: Rep. Crisler, Rock 4

TESTIMONY

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

Rep. Margaret Crisler, sponsor

Court record research fees rose on August 1, 2009 to \$20 per name for the first five names; thereafter, \$5 per name for the search. Many small businesses that do this type of work have gone out of business. This bill reduces the fee from \$20 to \$15.

Rep. William O'Brien: What is the actual cost to provide the service? A. None, but now the search is electronic.

Joan Bastian, Windham - supports.

Works on the abstracting. Business has decreased 40% since fee increased to \$20 for each of first five names, then \$5 per name.

Rep. Frances Potter: A. These are background checks for employment.

Rep. William O'Brien: A. District or Superior courts are where she does searches. Gets out-of-state business to do searches.

Rep. David Nixon: How many businesses in New Hampshire? A. Four very small businesses, she works for herself.

Rep. Nancy Elliot: A. Cannot go to one court and get searches for other courts.

Rep. Paul Hackel: A. Has to go to each court. Results can take a week or more. No email or phone requests to the courts accepted in most cases.

Rep. William O'Brien: Question about location.

Rep. Frances Potter: A. Files are open to the public. Most files are available, but some are sealed.

Rep. Nancy Elliot: Question about info in requests.

Dale Trombley, Administrative Office of the Courts – questions only.

Rep. William O'Brien: Is there a statewide to criminal data base? A. Department of Safety has all police records.

Rep. William Smith: A. Court staff suggested fees which were presented then presented to the House and Senate Ways and Means committees.

Rep. Nancy Elliot: Repeats Smith question about costing.

Rep. Paul Hackel: Why is sixth name so much less? A. Marginal cost and economy of scale.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Philip Preston". The signature is written in a cursive style with a large initial "P".

Rep. Philip Preston, Clerk

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HB 1577-FN

BILL TITLE: relative to court records research fees

DATE: 1-12-10

LOB ROOM: 208

Time Public Hearing Called to Order: 2:30

Time Adjourned:

(please circle if present)

Committee Members: Reps. D. Cole, Wall, Potter, Hackel, P. Preston, G. Richardson, L. Weber, B. Browne, Kitch, Thompson, Watrous, Rowe, N. Rhott, Di Crussia, W. O'Brien, Hagan, L. Perkins, Silva, W. Smith and Mead.

Bill Sponsors: Rep. Crisler, IRock 4

TESTIMONY

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

FROM: Rep. Philip Preston, Clerk
DATE: Public hearing January 12, 2010
SUBJECT: Meeting minutes on HB 1577, relative to court records research fees.

HB 1577 relative to court records research fees

Rep Margaret Crisler, sponsor

Court record research fees rose on Aug 1, 2009 to \$20 per name for the first five names; thereafter \$5 per name for the search. Many small business that do this type of work have gone out of business. This bill reduces the fee from \$20 to \$15.

O'Brien: What is actual cost to provide service? A: No, but now the search is electronic.

Joan Bastian, Windham - supports

Works on the abstracting. Business has decreased 40% since fee increased to \$20 for each of first 5 names, then \$5 per name.

Potter: A: These are background checks for employment.

O'Brien: A: District or Superior court are her where she does searches. Gets out-of-state business to do searches.

Nixon: How many businesses in NH A: 4, very small businesses, she works for herself

Elliott: A: Cannot go to one court and get searches for other courts.

Hackel: A: Has to go to each court. Results can take a week or more. No email or phone requests to the courts accepted in most cases.

O'Brien: question about location toutttht

Potter: A: Files are open to the public. Most files are available, but some are sealed.

Elliott: Question about info in requests.

Dale Trombley, Judicial Branch - questions only

O'Brien: Is there a statewide to criminal data base A: Dept of Safety has all police records.

Potter: What is the need for this service? A: The searches in question are for state, not federal files.

Smith: A: Court Staff suggested fees which were presented then presented to House & Senate Ways and Means,

Elliott. Repeats Smith question about costing.

Hackel: Why is 6th name so much less? A: Marginal cost and economy of scale.

Testimony

January 12, 2010

Judiciary Committee
Public hearing on Record Research fee reduction
Bill # HB 1577-FN
Legislative Office Building

My name is Joan Bastian, I am an honest and hard working person who owns and operates a small business named "JMB Title Abstracting, LLC.

Please accept and approve my appeal on a compromise for Record Research fee reduction. Rather than \$20.00 each for the 1st five names and \$5.00 each for any additional names, instead all record research fees be \$5.00 per name.

My business has decreased over 40% since the new rate has been in effect, particularly the district courts, where my clients are reluctant to pay \$20.00 to search for misdemeanors on an individual's background. The State of NH is basically losing revenue mostly with the district courts because of the fee increase of \$20.00 per name for the 1st five names. If the fees were reduced to \$5.00 per name, there would be more requests for misdemeanor searches. It is through researching misdemeanors that sometimes lead to results of felony convictions in the Superior courts.

Why a 125% increase for records research fees compared to a 10 to 20% increase for all other court fees effective in August? It is an unfair ruling and I wish I could have had a chance to negotiate this outrageous impact of fee changes. This is why I am here today to protect my small business. I still have to pay my mortgage, health insurance and property taxes among other expenses that may incur.

Thank you and please reconsider your decision and overturn the current ruling in an effort to reduce all record research fee to \$5.00 per name.

Sincerely,

Joan Bastian
JMB Title Abstracting, LLC
PO Box #82
Windham, NH 03087
(603)505-1910

Voting Sheets

HOUSE COMMITTEE ON JUDICIARY
EXECUTIVE SESSION on HB 1577-FN

BILL TITLE: relative to court records research fees

DATE: January 27, 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. Richardson

Seconded by Rep. Weber

Vote: 11-5 (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 1577-FN

BILL TITLE: relative to court records research fees

DATE: JANUARY 27, 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. Richardson

Seconded by Rep. Weber

Vote: 11/5 (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

Phil Preston

JUDICIARY

Bill #: HB 1577-FN Title: _____

PH Date: ____/____/____

Exec Session Date: 01 / 27 / 2010Motion: 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	_____	_____
Nixon, David L	Y	
Thompson, Robert B	Y	
Watrous, Rick H	Y	
X Rowe, Robert H <i>abs</i>		
Elliott, Nancy J		N
DiFruscia, Anthony R <i>abs</i>		
Mead, Robert D		N
O'Brien, William L		N
Hagan, Joseph M <i>abs</i>		
Perkins, Lawrence B <i>abs</i>		
Silva, Peter L		N
Smith, William B		N
READ, ROBIN	Y	
TOTAL VOTE:	11	5
Printed: 12/18/2009		

Committee Report

REGULAR CALENDAR

February 10, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on JUDICIARY to which was referred HB 1577-FN,

AN ACT relative to court records research fees. Having considered the same, report the same with the following

Resolution: RESOLVED, That it is INEXPEDIENT TO LEGISLATE.

Rep. Gary B. Richardson

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

Committee: JUDICIARY
Bill Number: HB1577-FN
Title: relative to court records research fees.
Date: February 2, 2010
Consent Calendar: NO
Recommendation: INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

The fees for name searches by clerks of court was increased to \$20 per name and \$5 for every name after the first five names as a result of budget discussions last session which were part of a general increase in court fees. Without doing an in depth study, it is impossible to break out the costs that are attributable to just one of many functions performed by the clerk's office.

Only one witness testified that her business has been hurt by the increase in the fee, and it was unclear whether this was due to the increase in the fee or the general state of the economy.

Without analyzing all of the costs involved in operating the clerk's offices so that an appropriate allocation can be made to this one function, it is difficult to say that the fee being changed is excessive. This bill is well intended but the fiscal note indicates that it would result in a loss of revenue in FY2010 of \$105,000 and FY2011 of \$422,826.

Until there is evidence to demonstrate that court fees are excessive, or that this fee in particular is excessive, the majority of the committee believes that this bill is inexpedient to legislate.

Vote 11-5

Rep. Gary B Richardson

Original: House Clerk
Cc: Committee Bill File

FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

JUDICIARY

HB1577-FN, relative to court records research fees. **INEXPEDIENT TO LEGISLATE.**

Rep. Gary B Richardson for the **Majority** of JUDICIARY. The fees for name searches by clerks of court was increased to \$20 per name and \$5 for every name after the first five names as a result of budget discussions last session which were part of a general increase in court fees. Without doing an in depth study, it is impossible to break out the costs that are attributable to just one of many functions performed by the clerk's office.

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Until there is evidence to demonstrate that court fees are excessive, or that this fee in particular is excessive, the majority of the committee believes that this bill is inexpedient to legislate. **Vote 11-5.**

Original: House Clerk
Cc: Committee Bill File

REGULAR MAJORITY REPORT

HB 1577, relative to court records research fees

INEXPEDIENT TO LEGISLATE VOTE: 11-5

REP. GARY L. RICHARDSON

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Until there is evidence to demonstrate that court fees are excessive, or that this fee in particular is excessive, the majority of the committee believes that this bill is inexpedient to legislate.

REGULAR CALENDAR

February 10, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on JUDICIARY to which was referred HB1577-FN,

AN ACT relative to court records research fees. Having considered the same, and being unable to agree with the Majority, report with the recommendation that the bill OUGHT TO PASS.

Rep. William L O'Brien

FOR THE MINORITY OF THE COMMITTEE

MINORITY COMMITTEE REPORT

Committee: JUDICIARY
Bill Number: HB1577-FN
Title: relative to court records research fees.
Date: February 2, 2010
Consent Calendar: NO
Recommendation: OUGHT TO PASS

STATEMENT OF INTENT

In recent legislation the court records research fee was increased without any testimony in committee that the prior fee did not cover the cost of this service. The result of this increase, according to testimony on HB 1577, was to burden companies providing research on court records to the degree that they have lost a substantial amount of work. The viability of some of those businesses, particularly the small companies has been almost destroyed. During the public hearing on HB 1577, the minority waited for testimony that the reduced \$5 per name research fee would not entirely cover the costs to the courts of these computer-generated searches or that the much higher current fees were necessary for that purpose. There was no such testimony. The minority opposes this bill because we believe fees should only cover the cost of a government-provided service. Fees should not be used, as is now too often the case, to generate surplus revenue to generally fund the government. This transformation of fees into taxes unfairly burdens as is the case here, small or discrete groups that do not have the clout to effectively protest; taken cumulatively, we believe those fees are causing New Hampshire to become one of the least favorable business environments in the country. We should stop that practice now. We can begin to do so by passing HB 1577.

Rep. William L O'Brien
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

JUDICIARY

HB1577-FN, relative to court records research fees. **OUGHT TO PASS.**

Rep. William L O'Brien for the **Minority** of JUDICIARY. In recent legislation the court records research fee was increased without any testimony in committee that the prior fee did not cover the cost of this service. The result of this increase, according to testimony on HB 1577, was to burden companies providing research on court records to the degree that they have lost a substantial amount of work. The viability of some of those businesses, particularly the small companies has been almost destroyed. During the public hearing on HB 1577, the minority waited for testimony that the reduced \$5 per name research fee would not entirely cover the costs to the courts of these computer-generated searches or that the much higher current fees were necessary for that purpose. There was no such testimony. The minority opposes this bill because we believe fees should only cover the cost of a government-provided service. Fees should not be used, as is now too often the case, to generate surplus revenue to generally fund the government. This transformation of fees into taxes unfairly burdens as is the case here, small or discrete groups that do not have the clout to effectively protest; taken cumulatively, we believe those fees are causing New Hampshire to become one of the least favorable business environments in the country. We should stop that practice now. We can begin to do so by passing HB 1577.

Original: House Clerk
Cc: Committee Bill File

**MINORITY
COMMITTEE REPORT**

Committee: JUDICIARY
Bill Number: HB1577-FN
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Consent Calendar: NO
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supports

Rep. William L O'Brien
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR MINORITY REPORT

HB 1577, relative to court records research fees.

OUGHT TO PASS

REP. WILLIAM L. O'BRIEN

Without any testimony that the prior fee for court records research did not cover the cost of this service, in recently passed legislation it was greatly increased. The result of this increase, according to testimony on HB 1577, was to burden companies providing research on court records to the degree that they have lost a substantial amount of work. The viability of those businesses, particularly the small companies, has been almost destroyed. Again during the public hearing on HB 1577, we waited for testimony that the reduced \$5 per name research fee would not entirely cover the costs to the courts of these computer-generated searches or that the much higher current fees were necessary for that purpose. There was no such testimony or representations. Fees should cover the cost of a service that the government provides. Fees should not, as is now too often the case, be used to generate surplus revenue to generally fund the government. The transformation of fees into taxes unfairly burdens, as is the case here, small or discrete groups that do not have the clout to effectively protest; cumulatively they are causing New Hampshire to become one of the least favorable business environments in the country. We should stop that practice now and begin by passing HB 1577.

AGREED
REVISION

Revised

HB 1577 Minority Report

Jud. Minority
Bill O'Brien
OK'd by
phone
4/1/10
KW

some of

In recent legislation the court records research fee was increased without any testimony in committee that the prior fee did not cover the cost of this service. The result of this increase, according to testimony on HB 1577, was to burden companies providing ~~search on court records~~ to the degree that they have lost a substantial amount of work. The viability of those businesses, particularly the small companies, has been almost destroyed. During the public hearing on HB 1577 the minority waited for testimony that the reduced \$5 per name research fee would not entirely cover the costs to the courts of these computer-generated searches or that the much higher current fees were necessary for that purpose. There was no such testimony. The minority oppose this bill because fees should only cover the cost of a government-provided service. Fees should not be used, as is now too often the case, to generate surplus revenue to generally fund the government. This transformation of fees into taxes unfairly burdens, as is the case here, small or discrete groups that do not have the clout to effectively protest; ^{taken} cumulatively, those fees are causing New Hampshire to become one of the least favorable business environments in the country. We should stop that practice now. We can begin to do so by passing HB 1577.

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taken
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