

# Bill as Introduced

HB 427-FN - AS INTRODUCED

2011 SESSION

11-0819  
03/10

HOUSE BILL        **427-FN**

AN ACT            prohibiting political advertising on public property.

SPONSORS:        Rep. Watrous, Merr 12

COMMITTEE:       Election Law

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ANALYSIS

This bill prohibits political advertising on public property and permits the state or a city or town to charge for removal and storage of improperly placed political advertising.

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                     Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT prohibiting political advertising on public property.

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

- 1 1 Placement and Removal of Political Advertising. Amend RSA 664:17 to read as follows:  
2 664:17 Placement and Removal of Political Advertising. No political advertising shall be placed  
3 on or affixed to any ~~[public property including highway rights of way or]~~ private property without the  
4 owner's consent. All political advertising shall be removed by the candidate no later than the second  
5 Friday following the election unless the election is a primary and the advertising concerns a  
6 candidate who is a winner in the primary. Signs shall not be placed on or affixed to utility poles or  
7 highway signs. ~~[Political advertising may be placed within state owned rights of way as long as the  
8 advertising does not obstruct the safe flow of traffic and the advertising is placed with the consent of  
9 the owner of the land over which the right of way passes.]~~ No person shall remove, deface, or  
10 knowingly destroy any political advertising which is placed on or affixed to ~~[public property or]~~ any  
11 private property except the owner of the property, persons authorized by the owner of the property,  
12 or a law enforcement officer removing improper advertising. Political advertising placed on or  
13 affixed to any public property may be removed by state, city, or town maintenance or law  
14 enforcement personnel. Political advertising removed prior to election day by state, city, or town  
15 maintenance or law enforcement personnel shall be kept for one week at a place designated by the  
16 state, city, or town so that the candidate may retrieve the items. ***The state or a city or town may***  
17 ***charge for the removal and storage of improperly placed political advertising.***  
18 2 Effective Date. This act shall take effect January 1, 2012.

LBAO  
11-0819  
01/14/11

**HB 427-FN - FISCAL NOTE**

AN ACT prohibiting political advertising on public property.

**FISCAL IMPACT:**

The Department of Transportation states this bill may have an indeterminable fiscal impact on state revenues and expenditures in FY 2012 and each fiscal year thereafter. The New Hampshire Municipal Association states this bill may have an indeterminable impact on local revenues and expenditures in FY 2012 and in each fiscal year thereafter. There will be no fiscal impact on county revenues or expenditures.

**METHODOLOGY:**

The Department of Transportation states this bill allows placement of political advertising on public lands without obtaining approval and also allows state and local governments to charge for the removal and storage of improperly placed political advertising. The Department states it is unable to determine this bill's fiscal impact as potential costs and rates of reimbursement rates cannot be predicted.

The New Hampshire Municipal Association states the analysis and title of this bill purport to prohibit the placement of political advertising on public property; however, the actual language of the bill does not amount to a prohibition. The Association states this bill would make the statute entirely silent regarding placement of political advertising place on public land, except that political advertising placed on public land may be removed by state, city or town maintenance for unspecified reasons and the state or municipality may charge for the removal and storage of improperly place political advertising. The Association states it is unclear as to the authority given to municipalities regarding recovering removal and storage costs under this bill and therefore it cannot predict the bill's fiscal impact.

The Department of State states this bill would further restrict placement of campaign signs and as it is not responsible for monitoring the placement of campaign signs, it would not be fiscally impacted by this bill.

# Amendments

NOT  
ADOPTED

Amendment to HB 427-FN

1 Amend the bill by replacing section 1 with the following:

2

3 1 Placement and Removal of Political Advertising. Amend RSA 664:17 to read as follows:

4 664:17 Placement and Removal of Political Advertising. No political advertising shall be placed  
5 on or affixed to any public property including highway rights-of-way. ~~[or]~~ **No political advertising**  
6 **shall be placed on or affixed to any** private property without the owner's consent. All political  
7 advertising shall be removed by the candidate no later than the second Friday following the election  
8 unless the election is a primary and the advertising concerns a candidate who is a winner in the  
9 primary. Signs shall not be placed on or affixed to utility poles or highway signs. Political  
10 advertising may **not** be placed within state-owned rights-of-way. ~~[as long as the advertising does not~~  
11 ~~obstruct the safe flow of traffic and the advertising is placed with the consent of the owner of the~~  
12 ~~land over which the right-of-way passes.]~~ No person shall remove, deface, or knowingly destroy any  
13 political advertising which is placed on or affixed to ~~[public property or]~~ any private property except  
14 the owner of the property, persons authorized by the owner of the property, or a law enforcement  
15 officer removing improper advertising. Political advertising placed on or affixed to any public  
16 property may be removed by state, city, or town maintenance or law enforcement personnel. **The**  
17 **state or a city or town may charge for the removal and storage of improperly placed**  
18 **political advertising.** Political advertising removed prior to election day by state, city, or town  
19 maintenance or law enforcement personnel shall be kept for one week at a place designated by the  
20 state, city, or town so that the candidate may retrieve the items.

# Hearing Minutes

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON HB 427-FN

**BILL TITLE:** prohibiting political advertising on public property.

**DATE:** 3/1/11

**LOB ROOM:** 308      **Time Public Hearing Called to Order:** 1:47 pm

**Time Adjourned:** 2:15 pm

(please circle if present)

**Committee Members:** Reps. Bates, Scala, Drisko, Jasper, Hoelzel, Doherty, Eaton, Birdsell, Byrnes, DeJong, DeLemus, Erickson, Reilly, Thomas, Cote, Pierce, Brunelle and Gimas.

**Bill Sponsors:** Rep. Watrous, Merr 12

TESTIMONY

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

\*Rep. Watrous – Sponsor – Written testimony attached – Distributed an amendment (2011-0085h) that clarifies the intent of the bill is to not allow political advertising on public property. It should be up to the cities and towns to determine what the fine should be.

Rep. Gimas expressed concern that cities or towns would use this as a revenue incentive.

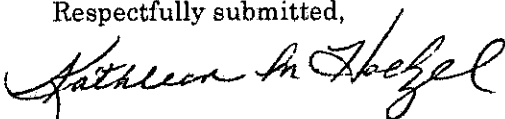
Rep. Doherty – Who would be specifically charged with the fine? Answer: The person whose name is on the sign!

Rep. Bates (1) Re: Cost up to city/town. Since it is already law why can't town assess fine. Ans. This would solve problem and be considered "enabling legislation". (2) The jeopardy placed on the candidate if someone else places the candidates sign on illegal property. (3) Court costs to follow through if the candidate says he didn't do it.

**Butch Knowlton** – Director of NH DOT operations – Not to support or oppose. DOT has struggled with this problem for a long time.

**Comment:** It would be very problematic to have to pick up all signs and then charge someone. There would be a cost to do this. It would be a burden on the foremen. A guess would be that implementation and enforcement could cost up to \$25-50K

Respectfully submitted,



Kathleen M. Hoelzel, Clerk



HOUSE COMMITTEE ON ELECTION LAW

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Bill Sponsors: Rep. Watrous, Merr 12

TESTIMONY

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

\* Rep. Watrous - sponsor. Written testimony attached distributed on Amendment (2011-0085-h) that clarifies the intent of the bill is to not allow political advertising on public property.

It should be up to the cities and towns to determine <sup>what</sup> the fine should be.

Rep Gimas expressed concern that cities or towns would use this as a revenue incentive.  
Rep Doherty: Who would be specifically charged with the fine?  
Answer - The person whose name is on the sign!

Rep Bates? <sup>Re:</sup> Cost up to city/Town since it is already law why can't town assess fine? ans. - This would solve problems be considered "enabling legislation".

③ - The jeopardy placed on the candidate if someone else places the candidates sign on illegal property. →

~~Ref~~ ③ Court costs to follow through if the Candidate says he didn't do it.

Butch Knowlton - Director of NHT DOT operations - Not to support or oppose.  
DOT has struggled w/ this problem for a long time. They pick up

Comment: It would be very problematic to have to pick up all signs & then charge someone. There would be a cost to do this. It would be a burden on the foreman. A guess would be that implementation & enforcement could cost up to 25-50K\$

# Testimony

**Testimony for the House Election Law Committee  
March 1, 2011**

**HB 427-FN**

For the record I am Representative Rick Watrous of Merrimack District 12, Concord wards 5, 6, and 7. I am the sponsor of House Bill 427 and am submitting this bill in the interests of keeping our public property free of political advertising and to provide the state and towns a financing incentive for enforcing the law.

After the bill was introduced the drafter contacted me and apologized for the wording of the bill. Comments from the Commissioner of NHDOT revealed how confusingly the bill was worded. With these comments in mind, I had the bill reworked as Amendment 2011-0085h, which I have distributed to the committee.

This bill was prompted by the growing profusion of political advertising on our state and city roads, our town parks and intersections. At one time yard signs appeared mainly in yards; now they appear by the dozens on public property. If Candidate X does it, Candidate Y responds in kind. Not only are these signs growing in number, they are growing in size, obscuring our beautiful NH landscape and posing hazards as they distract and limit visibility. During the fall election season, at the time when the NH countryside is most beautiful, we have the most signs cluttering the view.

I've talked to city officials in Concord who acknowledge the problem, but they—like most cities and towns—have neither the staff nor the financial incentive to enforce existing law and remove the signs. This bill, particularly as worded in the amendment, addresses these issues.

Amendment 0085 removes any ambiguity by stating that **no** political advertising shall be placed on public property or state owned rights-of-way. Such signs may be removed by the state, city or town, which may **charge** for the removal and storage of improperly placed political advertising.

I've been asked, what if someone removes one of my signs from private property and places it on public property to get me into trouble? Under existing law, the person who removed my sign would be guilty of a misdemeanor and a fine up to \$1,000.

The political sign race is getting out of control, encroaching on and marring our public property. It is time we provide our cities and towns a financial incentive to enforce the law. Political advertising belongs on private property, where we know that the property owner is endorsing a candidate. People should endorse candidates, not a state road or a city park. I urge you to pass this common sense legislation.

*He also submitted amendment # 2011-0085h*

# Voting Sheets

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on HB427

**BILL TITLE:** prohibiting political advertising on public property.

**DATE:** 3/9/11

**LOB ROOM:** 308

**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. Hoelzel

Seconded by Rep. Pierce

Vote: 16-0 (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 - Unanimous

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

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

Respectfully submitted,

Rep. Kathleen Hoelzel, Clerk

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on HB427

BILL TITLE: prohibiting political advertising on public property.

DATE: 3/9/11

LOB ROOM: 308

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. Hoelzel

Seconded by Rep. Pierce

Vote: (Please attach record of roll call vote.) 16-0

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

Moved by Rep.

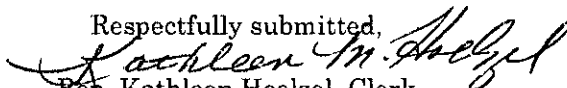
Seconded by Rep.

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

CONSENT CALENDAR VOTE: Yes - unanimous

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,  
  
Rep. Kathleen Hoelzel, Clerk

**ELECTION LAW**

Bill #: HB 437 Title: \_\_\_\_\_

PH Date: 1/1/11

Exec Session Date: 03/09/2011

Motion: ITL

Amendment #: \_\_\_\_\_

| MEMBER                     | YEAS      | NAYS     |
|----------------------------|-----------|----------|
| Bates, David, Chairman     | ✓         |          |
| Scala, Dino A, V Chairman  | ✓         |          |
| Drisko, Richard B          | ✓         |          |
| Jasper, Shawn N            | ✓         |          |
| Hoelzel, Kathleen M        | ✓         |          |
| Doherty, Shaun S           | ✓         |          |
| Eaton, Stephanie           | ✓         |          |
| Birdsell, Regina M         | ✓         |          |
| Byrnes, John J             | ✓         |          |
| DeJong, Cameron W          | ✓         |          |
| DeLemus, Susan C           | ✓         |          |
| Erickson, Duane H          |           |          |
| Reilly, Harold T           | ✓         |          |
| Thomas, Joseph D           | ✓         |          |
| Cote, David E              | ✓         |          |
| Pierce, David M            | ✓         |          |
| Brunelle, Michael D        |           |          |
| Gimas, John G <i>Keans</i> | ✓         |          |
| TOTAL VOTE:                | <i>16</i> | <i>0</i> |



# Committee Report

**CONSENT CALENDAR**

**March 10, 2011**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

The Committee on ELECTION LAW to which was referred HB427-FN,

AN ACT prohibiting political advertising on public property. Having considered the same, report the same with the following Resolution: **RESOLVED**, That it is **INEXPEDIENT TO LEGISLATE**.

**Rep. Kathleen M Hoelzel**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

|                   |  |
|-------------------|--|
| Committee:        | <b>ELECTION LAW</b>  |
| Bill Number:      | <b>HB427-FN</b>  |
| Title:            | <b>prohibiting political advertising on public property.</b> |
| Date:             | <b>March 10, 2011</b>  |
| Consent Calendar: | <b>YES</b>   |
| Recommendation:   | <b>INEXPEDIENT TO LEGISLATE</b>                              |

### STATEMENT OF INTENT

This bill would allow the state or a city or town to charge for the removal and storage of improperly placed political advertising. Nothing in the bill addresses upon whom the charge would be assessed. The Director of the New Hampshire DOT operations stated it would be very problematic to have to pick up all signs and then determine the charge and to whom.

Vote 16-0.

Rep. Kathleen M Hoelzel  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## **CONSENT CALENDAR**

### **ELECTION LAW**

**HB427-FN**, prohibiting political advertising on public property. **INEXPEDIENT TO LEGISLATE.** Rep. Kathleen M Hoelzel for **ELECTION LAW**. This bill would allow the state or a city or town to charge for the removal and storage of improperly placed political advertising. Nothing in the bill addresses upon whom the charge would be assessed. The Director of the New Hampshire DOT operations stated it would be very problematic to have to pick up all signs and then determine the charge and to whom. **Vote 16-0.**

Original: House Clerk  
Cc: Committee Bill File

HB 427 – Majority Report

This bill would allow the state or a city or town to charge for the removal and storage of improperly placed political advertising. Nothing in the bill addresses upon whom the charge would be assessed. The Director of the New Hampshire DOT operations stated it would be very problematic to have to pick up all signs and then determine the charge and to whom.

Rep. Kathleen Hoelzel for the Committee

*David Bates*

## HB 427 – Majority Report

This bill would allow the state or a city or town to charge for the removal and storage of improperly placed political advertising. Nothing in the bill addresses upon whom the ~~fine~~<sup>charge</sup> would be assessed. The Director of the New Hampshire DOT operations stated it would be very problematic to have to pick up all signs and then determine the charge and to whom.

Rep. Kathleen Hoelzel for the Committee

COMMITTEE REPORT

COMMITTEE: Electors Law

BILL NUMBER: HB 427

TITLE: \_\_\_\_\_

DATE: 03-09-2011 CONSENT CALENDAR: YES  NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2<sup>nd</sup> year of biennium)

|                        |
|------------------------|
| Amendment No.<br>_____ |
|------------------------|

STATEMENT OF INTENT:

*this bill would allow the state or a city or town to charge for the removal and storage of improperly placed political advertising. Nothing in the bill addresses who upon whom the fine would be assessed. The Director of the NH DOT operations stated it would be very problematic to have to pick up all signs and then determine the charge and to whom.*

COMMITTEE VOTE: 16-0

RESPECTFULLY SUBMITTED,

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

Rep. Kathleen R. Abelzel  
For the Committee