

CONSENT CALENDAR

March 2, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Election Law to which was referred
HB 1359,**

**AN ACT relative to the election-day duties of incumbent
election officials who also appear on the ballot. Having
considered the same, report the same with the following
resolution: RESOLVED, that it is INEXPEDIENT TO
LEGISLATE.**

Rep. James Qualey

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Election Law
Bill Number:	HB 1359
Title:	relative to the election-day duties of incumbent election officials who also appear on the ballot.
Date:	March 2, 2022
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill attempts to address the appearance of conflict presented when certain election officials (moderators, selectman, and supervisors of the checklist) and inspectors of elections perform election day duties for elections in which they also appear on the ballot. It proposes to do so by disqualifying said officials from performing election duties in such an election. The bill also would prohibit such officials from remaining inside the guardrail during the counting of votes for the offices for which they are candidates. Furthermore, the bill proposes that the presence of such officials in the vicinity of the polling place shall be confined to spaces designated for electioneering by the moderator. These proposed changes to existing state law raised several issues for the committee. For example, the committee is concerned about the constitutionality of the bill's proposal (in part 1) that, in order to prevent a potential for perceived conflict, the moderator will be deprived of his or her constitutionally-mandated authority and duty to govern elections and "receive the votes of the inhabitants" (NH Constitution Part 2, Article 32). In addition, the proposal to limit an official's presence to the designated electioneering spaces (Part 3) also raises First Amendment concerns. Also, the rationale for not imposing the bill's provisions on other election officials (town clerk, deputy moderator, assistant moderator, etc) is unclear and was not discussed during the public hearing. Finally, during the hearings, practical concerns were raised by those giving testimony (and committee members as well) regarding the availability of knowledgeable and willing substitutes for moderators (in particular) and for selectmen in city wards, the sole duty of which is to conduct elections.

Vote 20-0.

Rep. James Qualey
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Election Law

HB 1359, relative to the election-day duties of incumbent election officials who also appear on the ballot. **INEXPEDIENT TO LEGISLATE.**

Rep. James Qualey for Election Law. This bill attempts to address the appearance of conflict presented when certain election officials (moderators, selectman, and supervisors of the checklist) and inspectors of elections perform election day duties for elections in which they also appear on the ballot. It proposes to do so by disqualifying said officials from performing election duties in such an election. The bill also would prohibit such officials from remaining inside the guardrail during the counting of votes for the offices for which they are candidates. Furthermore, the bill proposes that the presence of such officials in the vicinity of the polling place shall be confined to spaces designated for electioneering by the moderator. These proposed changes to existing state law raised several issues for the committee. For example, the committee is concerned about the constitutionality of the bill's proposal (in part 1) that, in order to prevent a potential for perceived conflict, the moderator will be deprived of his or her constitutionally-mandated authority and duty to govern elections and "receive the votes of the inhabitants" (NH Constitution Part 2, Article 32). In addition, the proposal to limit an official's presence to the designated electioneering spaces (Part 3) also raises First Amendment concerns. Also, the rationale for not imposing the bill's provisions on other election officials (town clerk, deputy moderator, assistant moderator, etc) is unclear and was not discussed during the public hearing. Finally, during the hearings, practical concerns were raised by those giving testimony (and committee members as well) regarding the availability of knowledgeable and willing substitutes for moderators (in particular) and for selectmen in city wards, the sole duty of which is to conduct elections. **Vote 20-0.**

Original: House Clerk

Cc: Committee Bill File

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on HB 1359

BILL TITLE: relative to the election-day duties of incumbent election officials who also appear on the ballot.

DATE: February 23, 2022

LOB ROOM: 306-308

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Qualey

Seconded by Rep. Torosian

Vote: 20-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Natalie Wells, Clerk



2022 SESSION

Election Law

Bill #: HB 1359 Motion: ITL AM #: _____ Exec Session Date: 2-23-22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Griffin, Barbara J. Chairman	✓		
MacDonald, Wayne D. Vice Chairman	✓		
Prudhomme-O'Brien, Katherine J.	✓		
Sweeney, Joe	✓		
Hayward, Peter T. <i>Mooney</i>	✓		
Torosian, Peter E.	✓		
Berry, Ross	✓		
Groen, Fenton	✓		
Qualey, James R.	✓		
Wells, Natalie J. Clerk	✓		
Alexander, Joe H.	✓		
Cote, David E. <i>Paige</i>	✓		
Ward, Gerald W.R.	✓		
*Bergeron, Paul R.	✓		
Sandler, Catt <i>Pimentel</i>	✓		
Hamer, Heidi M.	✓		
Lane, Connie B.	✓		
Freitas, Mary C.	✓		
Hamblet, Joan L.	✓		
Muirhead, Russell	✓		
TOTAL VOTE:	<i>20</i>	<i>0</i>	

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON HB 1359

BILL TITLE: relative to the election-day duties of incumbent election officials who also appear on the ballot.

DATE: February 10, 2022

LOB ROOM: 306-308

Time Public Hearing Called to Order:

Time Adjourned:

Committee Members: Reps. B. Griffin, W. MacDonald, Wells, Prudhomme-O'Brien, Sweeney, Hayward, Torosian, Berry, Groen, Qualey, Alexander Jr., Cote, Ward, Bergeron, Sandler, Hamer, Lane, Freitas, Hamblet and Muirhead

Bill Sponsors:

Rep. Rhodes
Rep. Binford

Rep. Hough

Rep. Potucek

TESTIMONY

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

Rep Rhodes introduced the bill and spoke to the amendment.

Rep Alex - City sole function is to run election so they should be renewed.

Rep Bergeron - Constitution says moderator shall in presence of ____ elections.

Rep ____ - Would you believe 176 election positive ____ alone?

Rep Berry - Concur

Rep Lane - Can they ____ in room (mod) A - _____

Rep Hamen - Moderator to both.

Tina Guilford - Oppose - Derry Moderator

- Moderator is in charge
- Do you have _____ moderator - Yes 8

Rep Hough - Support

- Not a great look.

Dan Healy - Oppose

Natch Greyes - Oppose for reasons already stated.

Rep Lane - Why? Rules complex and defined. Hard to find volunteers.

Rep Torosian - Do you see the conflict?

A hard _____

Russan Chester - Supports

- Saw _____

Rep Hamer - Did you know words don't _____

Rep Fratas -

House Remote Testify

Election Law Committee Testify List for Bill HB1359 on 2022-02-10

Support: 8 Oppose: 57 Neutral: 0 Total to Testify: 0

Export to Excel

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Podlipny, Ann	Chester, NH apodlipny57@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/4/2022 1:47 PM
Huberman, Anne	Peterborough, NH Anne.Huberman@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/4/2022 3:51 PM
Bushueff, Catherine	Sunapee, NH agawamdesigns@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/5/2022 8:08 AM
thompson, julia	durham, NH maple371@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/5/2022 5:17 PM
Lobdell, Sara	Keene, NH slobdell@antioch.edu	A Member of the Public	Myself	Oppose	No	No	2/5/2022 8:36 PM
Cotton, Bev	Weare, NH bevcott@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/6/2022 7:24 AM
Lightfoot, Jean	Hopkinton, NH JnLightfoot@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/6/2022 11:41 AM
Dinzeo, David	Dover, NH dinz00@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/6/2022 5:02 PM
Dargie, Paul	Milford, NH pauldargie@gmail.com	An Elected Official	Myself	Oppose	No	No	2/6/2022 5:45 PM
Hatcher, Phil	Dover, NH phil.hatcher@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/6/2022 9:19 PM
Boyle, Mary	Cornish, NH mary.n.boyle@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/6/2022 11:57 PM
Lucas, Janet	Campton, NH janluca1953@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 7:28 AM
Gibbs, Elizabeth	Newport, NH Chezedg@yahoo.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 10:05 AM

QUISUMBING-KING, Cora	Dover, NH coraq@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/7/2022 3:00 PM
Farnum, Ellen	Tamworth, NH ellenlynnfarnum@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 4:04 PM
Garland, Ann	LEBANON, NH annahgarland@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 4:35 PM
Couture, Matthew	Rochester, NH coochdog@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 5:46 PM
Rich, Martha	Enfieldd, NH martha.rich@thet.net	A Member of the Public	Myself	Oppose	No	No	2/7/2022 5:50 PM
Robbins, Ada	Colebrook, NH adarobbins@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 6:56 PM
Caudill Slosberg, Margaret	Lyme, NH margaretcs08@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 7:04 PM
racusin, sharon	hanover, NH sdracusin@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 7:05 PM
Burr, Emily	Canterbury, NH revemilyburr@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 7:17 PM
Serrell, James J	Kingston, NH imjjserrell@yahoo.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 8:04 PM
Petrovito, Janet	Fracestown, NH Janpietrovito@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 8:25 PM
Emus, Joanne	Hollis, NH jremus0322@aol.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 8:31 PM
Moore, Susan	Franconia, NH susan.moore.franconia@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 9:59 PM
Kudlik, Cindy	Grafton, NH CindyKudlik@protonmail.com	An Elected Official	Myself	Oppose	No	No	2/7/2022 10:32 PM
Verschueren, James	Dover, NH jd.verschueren@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 11:05 PM
Richardson, Bryan	Alexandria, NH marks-dad@ipatriots.us	A Member of the Public	Myself	Support	No	No	2/8/2022 1:40 AM
Field, Bryan	PETERBOROUGH, NH brysciguy@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/8/2022 6:01 AM
Saum, Judith	Rumney, NH judithsaum@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/8/2022 6:29 AM

Cronin, Mary	Madison, NH m_cronin81@hotmail.com	A Member of the Public	Myself	Oppose	No	No	2/8/2022 6:38 AM
Field, Linda	Peterborough, NH lindafield9@yahoo.com	A Member of the Public	Myself	Oppose	No	No	2/8/2022 8:27 AM
Bagshaw, Joseph	Center Conway, NH bagshaw.joseph@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/8/2022 9:37 AM
Kelley, Mary	Dover, NH midgekelly1@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/8/2022 10:36 AM
Leavitt, Deborah	Dover, NH daleavitt77@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/8/2022 10:40 AM
Learner, Marilyn	HOLLIS, NH mzlearner@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/8/2022 10:59 AM
Learner, Larry	Hollis, NH larrylearner@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/8/2022 11:00 AM
Reed, Barbara	North Swanzey, NH BDRreed74@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/8/2022 12:27 PM
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Support	No	No	2/8/2022 1:48 PM
Dargie, Joan	Milford, NH joan.dargie@milford.nh.gov	An Elected Official	Milford	Oppose	No	No	2/8/2022 3:44 PM
Hamer, Gary	Manchester, NH grhamer@aol.com	A Member of the Public	Myself	Oppose	No	No	2/8/2022 6:19 PM
Hamer, Geoff	Manchester, NH geoffh87@aol.com	A Member of the Public	Myself	Oppose	No	No	2/8/2022 6:19 PM
Campbell, Karen	Epsom, NH klynncampbell50@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/8/2022 10:52 PM
Fraysse, Michael	Epsom, NH mikefraysse@gmail.com	A Member of the Public	Michael Fraysse	Oppose	No	No	2/8/2022 10:53 PM
Lacombe, Lucille	Antrim, NH gllac@tds.net	A Member of the Public	Myself	Oppose	No	No	2/9/2022 9:45 AM
Parker, Kerri	Meredith, NH kparker@meredithnh.org	An Elected Official	Myself	Oppose	No	No	2/9/2022 10:46 AM
Campbell, K Kay	Epsom, NH kkcampbell43@yahoo.com	A Member of the Public	Myself	Oppose	No	No	2/9/2022 11:44 AM
Bundy, Linda Olson	Antrim, NH n_bundy@mcttelecom.com	A Member of the Public	Myself	Oppose	No	No	2/9/2022 4:06 PM

Terwilliger, Linda	Gilford, NH lindaterwilliger364@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/9/2022 4:17 PM
Robinson, Steven	Northwood, NH Nikkiandme@yahoo.com	A Member of the Public	Myself	Support	No	No	2/9/2022 7:12 PM
Robinson, Karen	Northwood, NH Bdabng12@yahoo.com	A Member of the Public	Myself	Support	No	No	2/9/2022 7:30 PM
Maldonado, Ursula	Concord, NH ursula.m.maldonado@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/9/2022 10:01 PM
Maldonado, Luis	Concord, NH luis.n.maldonado@outlook.com	A Member of the Public	Myself	Oppose	No	No	2/9/2022 10:37 PM
Loveless, eric	bedford, NH lovelessej@gmail.com	A Member of the Public	Myself	Support	No	No	2/9/2022 11:37 PM
Chester, Russan	Bedford, NH russan.chester@gmail.com	A Member of the Public	Myself	Support	No	No	2/9/2022 11:38 PM
Richman, Susan	Durham, NH susan7richman@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/10/2022 8:13 AM
Saba, Robin	CANDIA, NH rbrooks230@hotmail.com	A Member of the Public	Myself	Support	No	No	2/10/2022 8:40 AM
Dufort, Liselle	Newport, NH clerk@newportnh.gov	An Elected Official	Myself	Oppose	No	No	2/10/2022 9:08 AM
Ewing, Josie	Plymouth, NH josie.girona@aol.com	An Elected Official	Myself	Oppose	No	No	2/10/2022 9:34 AM
Howard, Raymond	Alton, NH brhowardjr@yahoo.com	An Elected Official	Belknap 8	Oppose	No	No	2/10/2022 9:39 AM
Anastasia, Patricia F	Londonderry, NH patti.anastasia@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/10/2022 11:45 AM
Andrews, David	Chichester, NH davidandrewsnh@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/10/2022 2:10 PM
Mott-Smith, Wiltrud	Loudon, NH wmottsm@worldpath.net	A Member of the Public	Myself	Support	No	No	2/10/2022 6:20 PM
Perry, Bob	Strafford, NH perry4nh@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/10/2022 8:49 PM

Archived: Wednesday, May 18, 2022 10:18:45 AM

From: [Tom Southworth](#)

Sent: Tuesday, February 15, 2022 11:18:12 AM

To: [~House Election Law Committee](#)

Subject: HB1359

Importance: Normal

To: Election Law Committee Members

I was unable to testify at last week's hearing on HB1359. I am opposed to this bill. NH elections are run by a team of elected officials (clerk, moderator, selectmen, etc.) and volunteers. The teams are non-partisan and there are many safeguards. The Secretary of State prepares a detailed election manual (nearly 400 pages) and the clerk and moderator share relevant information for each Election Day role. There are also in-person workshops and online presentations. Most members of the election team serve for many years and acquire a wealth of experience. The consequence of this bill would be that many experienced election officials could not assist during local elections. Most election officials run unopposed and do not have campaigns. Electioneering would be quickly reported to the moderator, and if necessary, the clerk and SOS. Although there may have been election issues in a few locations, this bill would jeopardize local elections throughout NH.

Thank you for your careful consideration of this legislation.

Rep. Thomas Southworth
Selectman, Ward 4 Dover

HB 1359 - AS INTRODUCED

2022 SESSION

22-2666

11/08

HOUSE BILL **1359**

AN ACT relative to the election-day duties of incumbent election officials who also appear on the ballot.

SPONSORS: Rep. Rhodes, Ches. 15; Rep. Hough, Belk. 3; Rep. Potucek, Rock. 6; Rep. Binford, Graf. 15

COMMITTEE: Election Law

ANALYSIS

This bill clarifies what duties certain election officials may perform on election day when such officials also appear on the ballot.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the election-day duties of incumbent election officials who also appear on the ballot.

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

1 1 Absences Among Election Officers; Disqualification of Certain Persons. Amend RSA 658:24 to
2 read as follows:

3 658:24 Disqualification of Certain Persons. Any person, other than a ~~[moderator]~~ clerk,
4 ~~[selectman, inspector of election, or supervisor of the checklist,]~~ whose name appears on a ballot for
5 an elective position~~[,] other than a position of an election official,~~ shall be disqualified from
6 performing duties as an election official in that election. A moderator, ~~[clerk]~~ selectman, inspector
7 of election, or supervisor of the checklist whose name appears on a ballot for an elective position,
8 other than the position of an election official, shall be disqualified from the handling of marked
9 ballots and the counting of votes.

10 2 Election Procedure; Counting of Votes. Amend RSA 659:58 to read as follows:

11 659:58 Disqualification of Officials. Any election official, other than the ~~[moderator]~~ **clerk**, who
12 is also a candidate for office shall not be allowed to remain within the guardrail during the counting
13 of votes for an office for which he is a candidate. Such official shall disqualify himself **or herself**
14 from election duties relating to the tabulation of votes; and the moderator shall appoint an assistant
15 who shall take the same oath as, serve in the same capacity as, and have all the powers of the
16 election official who is disqualified until such official may properly return.

17 3 Electioneering by Election Officers. Amend RSA 659:44 to read as follows:

18 659:44 Electioneering by Election Officers. No election officer shall electioneer while in the
19 performance of his official duties. **All election officers, except clerks, who appear on the ballot**
20 **in an election shall remain within the spaces designated for electioneering pursuant to**
21 **RSA 659:43 unless proceeding into the polling place to cast their own votes.** For the purposes
22 of this section, "electioneer" shall mean to act in any way specifically designed to influence the vote
23 of a voter on any question or office. Any person who violates this provision shall be guilty of a
24 misdemeanor.

25 4 Effective Date. This act shall take effect 60 days after its passage.