CONSENT CALENDAR

April 14, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Election Law to which was referred SB 405-FN,

AN ACT relative to fines and penalties for election law violations. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Ross Berry

FOR THE COMMITTEE

Original: House Clerk

Cc: Committee Bill File

COMMITTEE REPORT

Committee:	Election Law
Bill Number:	SB 405-FN
Title:	relative to fines and penalties for election law violations.
Date:	April 14, 2022
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2022-1512h

STATEMENT OF INTENT

As amended this bill adds penalties to certain election law crimes including intimidating election workers and/or removing and defacing political signs. The amendment corrected statutory references and resulting penalty provisions to be consistent with other penalties in statute. The amendment also added penalties for conduct by officials on election day that has already been approved by the House.

Vote 20-0.

 $\begin{array}{c} \text{Rep. Ross Berry} \\ \text{FOR THE COMMITTEE} \end{array}$

Original: House Clerk

Cc: Committee Bill File

CONSENT CALENDAR

Election Law

SB 405-FN, relative to fines and penalties for election law violations. OUGHT TO PASS WITH AMENDMENT.

Rep. Ross Berry for Election Law. As amended this bill adds penalties to certain election law crimes including intimidating election workers and/or removing and defacing political signs. The amendment corrected statutory references and resulting penalty provisions to be consistent with other penalties in statute. The amendment also added penalties for conduct by officials on election day that has already been approved by the House. **Vote 20-0.**

Original: House Clerk

Cc: Committee Bill File

Amendment to SB 405-FN

1	Amend the title of the bill by replacing it with the following:
2	
3 4 5	AN ACT relative to fines and penalties for election law violations and relative to consequences resulting from election official misconduct.
6	Amend RSA 664:21, VIII(a) as inserted by section 4 of the bill by replacing it with the following:
7	
8	VIII.(a) Whoever violates any provision of RSA 664:14, or a provision of RSA 664:17 not
9	related to removing, defacing, or destroying political advertising as provided for in paragraph V of
10	this section, shall be subject to a civil penalty not to exceed \$1,000.
11	
12	Amend the bill by replacing all after section 4 with the following:
13	
14	5 Provisions for Purity of Elections; Official Misconduct; Consequences. Amend RSA 666:3 to
15	read as follows:
16	666:3 Official Misconduct.
17	I. Any public officer upon whom a duty relating to elections is imposed who shall knowingly
18	fail to perform such duty or who shall knowingly perform it in such a way as to hinder the objects
19	thereof shall be guilty of a misdemeanor if no other penalty is provided by law.
20	II. Any public officer upon whom a duty relating to elections is imposed who shall
21	negligently fail to perform such duty or who shall negligently perform it in such a way as
22	to hinder the objects thereof, as found pursuant to RSA 666:2, shall cause the county, city,
23	town, school district, village district, or other political subdivision, where such conduct
24	occurred to be subject to a civil penalty of not less than \$250 nor more than \$1000 for each
25	act.
26	III. The attorney general shall notify the county, city, town, school district, village
27	district, or other political subdivision that is subject to this section of the state's intention
28	to seek a civil penalty, and of the ability to negotiate with and to settle with such county,
29	city, town, school district, village district, or other political subdivision without court
30	action, provided that any civil penalty paid as settlement shall be paid to the attorney
31	general for deposit into the general fund.

Amendment to SB 405-FN - Page 3 -

2022-1512h

AMENDED ANALYSIS

This bill modifies penalties for certain offenses related to elections and allows the attorney general to seek a civil penalty against the local government entity in which an election official was found to have negligently engaged in misconduct.

Amendment to SB 405-FN - Page 2 -

- IV. If an entity is subject to a civil penalty under this section, the entity shall also be subject to the payment of restitution damages.
- 3 6 Effective Date.
- 4 I. Sections 1-4 of this act shall take effect January 1, 2023.
- 5 II. The remainder of this act shall take effect 60 days after its passage.

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on SB 405-FN

BILL TITLE:

relative to fines and penalties for election law violations.

DATE:

April 13, 2022

LOB ROOM:

306 - 308

MOTIONS:

OUGHT TO PASS WITH AMENDMENT

Moved by Rep. Berry

Seconded by Rep. Bergeron

AM Vote: 20-0

Amendment # 2022-1383h

Moved by Rep. Berry

Seconded by Rep. Torosian

Vote: 20-0

MOTIONS:

RECONSIDERATION

Moved by Rep. B. Griffin

Seconded by Rep. Sweeney

Vote: 20-0

MOTIONS:

OUGHT TO PASS WITH AMENDMENT

Moved by Rep. B. Griffin

Seconded by Rep. Torosian

AM Vote: 20-0

Amendment # 2022-1383h

MOTIONS:

OUGHT TO PASS WITH AMENDMENT

Moved by Rep. B. Griffin

Seconded by Rep. Sweeney

AM Vote: 20-0

Amendment # 2022-1499h

Moved by Rep. B. Griffin

Seconded by Rep. Torosian

Vote: 20-0

COMBINED BOTH AMENDMENTS INTO: 2022-1512h

CONSENT CALENDAR: YES

Statement of Intent:

Refer to Committee Report

Respectfully submitted,

Rep Natalie Wells, Clerk



1/10/2022 8:59:01 AM Roll Call Committee Registers Report

2022 SESSION

Election Law

Bill#: 465- Motion: OT A 1494 AM#	Exec Sessi	on Date:	13/22
Members	YEAS	<u>Nays</u>	NV
Griffin, Barbara J. Chairman	V		
MacDonald, Wayne D. Vice Chairman	L		
Prudhomme-O'Brien, Katherine J.			
Sweeney, Joe	L		
Hayward, Peter T. Healey	N		
Torosian, Peter E.	V		
Berry, Ross	V		
Groen, Fenton M. Simon	V		
Qualey, James R.	V		
Wells, Natalie J. Clerk	4		
Alexander, Joe H.	v		
Cote, David E. Marsh	U		
Ward, Gerald W.R.	4		
Bergeron, Paul R.	L		
Sandler, Catt	L		
Hamer, Heidi M. Peres	L		
Lane, Connie B.	_		
Freitas, Mary C.	4		
Hamblet, Joan L.	4		
Muirhead, Russell Merchent	v		
TOTAL VOTE:	20	9	

STATE OF NEW HARM STILLE OFFICE OF THE HOUSE CLERK



1/21/2021 9:37:57 AM Roll Call Committee Registers Report

2021 SESSION

Election Law

Bill #: 58 40

Exec Session Date: $\sqrt{-3-3}$

<u>Members</u>	YEAS	<u>Nays</u>	NV
Griffin, Barbara J. Chairman	V		
MacDonald, Wayne D. Vice Chairman	v		
Prudhomme-O'Brien, Katherine J.	V		
Sweeney, Joe	v		
Hayward, Peter T. Healen	V		
Hayward, Peter T. Healey Mooney, Maureen C. Ole Landn	v		
Torosian, Peter E.	V		
Berry, Ross	V		
Groen, Fenton M. Simon			
Qualey, James R.			
Wells, Natalie J. Clerk	V		
Cote, David En March			
Ward, Gerald W.R.			
Bergeron, Paul R.	V		
Sandler, Catt	- L		
Hamer, Heidi M. Peren			
Lane, Connie B.			
Freitas, Mary C.	V		
Hamblet, Joan L.	1./		
Muirhead, Russell Merchant	11/		
TOTAL VOTE:	20	0	



1/10/2022 8:59:01 AM Roll Call Committee Registers

2022 SESSION

Election Law

Bill #: <u>405-FN</u> Motion:

Members	YEAS	<u>Nays</u>	NV
Griffin, Barbara J. Chairman	1		
MacDonald, Wayne D. Vice Chairman	V		
Prudhomme-O'Brien, Katherine J.	V		
Sweeney, Joe	v		
Hayward, Peter J. Rep Healey	C		
Torosian, Peter E.	L		
Berry, Ross	v		And the second s
Groen, Fenton M. Simon	v		
Qualey, James R.	V		
Wells, Natalie J. Clerk	V		
Alexander, Joe H.	V		
Gote, David E. Marsh	U		
Ward, Gerald W.R.	V		
Bergeron, Paul R.	V		
Sandler, Catt	V		
Hamer, Heidi M. Peres	V		
Lane, Connie B.	L	7	
Freitas, Mary C.	U		1
Hamblet, Joan L.	V		
Muirhead, Russell Merchent.	V		
TOTAL VOTE:	20	9	



1/21/2021 9:37:57 AM Roll Call Committee Registers Report

Election Law

Motion:

2021 SESSION

Exec Session Date: ユーノ3・プラ

<u>Members</u>	YEAS	<u>Nays</u>	<u>NV</u>
Griffin, Barbara J. Chairman		-	
MacDonald, Wayne D. Vice Chairman	-		
Prudhomme-O'Brien, Katherine J.	V		
Sweeney, Joe	V		
	V		
Hayward, Peter T. Healey Mooney, Maureen C. Olexander	V		
Torosian, Peter E.			
	V		
Berry, Ross			
Groen, Fenton Matthew Simon	~		
Qualey, James R.			
Wells, Natalie J. Clerk			
Cote, David E. Bill Marsh			
Ward, Gerald W.R.	L		
Bergeron, Paul R.	L		
Sandler, Catt	V		
Hamer, Heidi M. Perez	V		
Lane, Connie B.	4		
Freitas, Mary C.	·		
Hamblet, Joan L.	V		
Muirhead, Russell Murhead	1		
TOTAL VOTE:	20	8	



1/21/2021 9:37:57 AM Roll Call Committee Registers Report

2021 SESSION

Election Law

BIII #: 513 405 FN	Motion: (STP)	A	AM #:	1383	Exec Session Date:	4-13-	- 49
		1 1 1		10/1			

<u>Members</u>	YEAS	Nays	NV
Griffin, Barbara J. Chairman	V		
MacDonald, Wayne D. Vice Chairman	v		
Prudhomme-O'Brien, Katherine J.			
Sweeney, Joe	V		
Hayward, Peter T. Bob Healey	V		
Hayward, Peter T. Bob Healey Mooney, Maureen E. Olevarder	V		
Torosian, Peter E.			
Berry, Ross	V		
Groen, Fenton Wather Simon	V		
Qualey, James R.	V		
Wells, Natalie J. Clerk	4		
Cote, David E. Bill Marsh	i		
Ward, Gerald W.R.	1		
Bergeron, Paul R.	L		
Sandler, Catt			
Hamer, Héidi M. M Peren Ammen	~		
Lane, Connie B.	V		
Freitas, Mary C.	1		
Hamblet, Joan L.			
Muirhead, Russell Jany Morchant	1		
TOTAL VOTE:	20	0	



1/21/2021 9:37:57 AM Roll Call Committee Registers Report

2021 SESSION

Election Law

Bill #56 405-FN 1	Motion: OTP	AM #:	1383	Exec Session Date: 4	13-93
3					

<u>Members</u>	YEAS	Nays	NV	
Griffin, Barbara J. Chairman	1			
MacDonald, Wayne D. Vice Chairman	L			
Prudhomme-O'Brien, Katherine J.	V			
Sweeney, Joe				
Hayward, Peter T. Healey				
Mooney, Maureen C. Whank				
Torosian, Peter E.	V			
Berry, Ross	V			
Groen, Fenton Motthew Simon	V			
Qualey, James R.				
Wells, Natalie J. Clerk	V			
Gote, David E. Bul Marsh	V			
Ward, Gerald W.R.	L			
Bergeron, Paul R.	v			
Sandler, Catt	V			
Hamer, Heidi M. Peren				
Lane, Connie B.	L			
Freitas, Mary C.	V			
Hamblet, Joan L.	V			
Muirhead, Russell Merchant.	L			
TOTAL VOTE:	20	0		

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON SB 405-FN

BILL TITLE: (New Title) relative to fines and penalties for election law violations and

relative to consequences resulting from election official misconduct.

DATE: April 6, 2022

LOB ROOM: 306-308 Time Public Hearing Called to Order: 11:15 a.m.

Time Adjourned: 11:17 a.m.

Hearing was adjourned and re-opened at 11:40 a.m. and closed at 11:52 a.m.

<u>Committee Members</u>: 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:

Sen. Giuda Sen. Avard Sen. Birdsell

Rep. J. MacDonald Rep. Lang

TESTIMONY

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

Rep Hayward - Introduced the bill

• Relative to fines and penalties for Election Law violations

Senator Guida - Prime Sponsor

- Worked with the AGs ofice.
- Took a look at minimal penalties (fines). Someone who tears down signs.
- For these reasons, put in this bill
- Respect the 1st Amendment, pay the proce for sign owner and property

Question - Rep Torosian - Fine amounts synonomous. If someone gets caught stealing and comes down to the AG, could the person damage by this file without the AG?

Answer - Its up to the property owner

Question - Can they use small claims court if damaged repeatedly?

Answer - Right, but the cost of a sign is \$5. Who would go to small claimes? Bottom line, raise the bar for those committing and disrespecting the law. Help to mitigate higher penalty.

Question- Rep Qualey - My question is on section I, starting line 4 page 2. Whoever violates Class B. The words - discourage, intimidate, under law, seems strong

Answer - Drafted from AGs office and was brought out last election. May want to define that better and I come down on the side of the citizen. I agree that may want to look at this.

Question - Rep Qualey - Section IV, page 2, line 11 - In 6.64:14 refers to identify who put out the advertising. I'm puzzled.

Answer - Don't have an answer for that.

Question - **Rep Bergeron** - What about instance when and where the candidate puts a sign on the property of another?

Answer - No, it would not impact this.

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # 58 405		Date 4/6/2
Committee	Election	Law
	** Please Print	All Information **

	** Please Prin	it All Informati	on **		
				(chec	k one)
Name	Address	Phone	Representing	Pro	Con
XIII Garage	X 2 / J A	11		X	
C. P. C.	ida Newbur	7(7)		V	
Ja. 400 (7/1	ida 1. i				
Liz Jenlarell	i New bur	eg .		V	

House Remote Testify

Election Law Committee Testify List for Bill SB405 on 2022-04-06

Support: 1 Oppose: 0 Neutral: 0 Total to Testify: 0

Export to Excel

<u>Name</u>	City, State Email Address	<u>Title</u>	Representing	Position	<u>Testifying</u>	Non-Germane	Signed Up
Birdsell, Senator Regina	Hampstead, NH regina.birdsell@leg.state.nh.us	An Elected Official	Senate District 19	Support	No	No	3/31/2022 8:09 AM

SB 405-FN - AS AMENDED BY THE SENATE

03/24/2022 1101s

2022 SESSION

22-3052 11/04

SENATE BILL

405-FN

AN ACT

ţ

relative to fines and penalties for election law violations.

SPONSORS:

Sen. Giuda, Dist 2; Sen. Avard, Dist 12; Sen. Birdsell, Dist 19; Rep. J. MacDonald,

Carr. 6; Rep. Lang, Belk. 4

COMMITTEE:

Election Law and Municipal Affairs

ANALYSIS

This bill modifies penalties for certain offenses related to elections.

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

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relative to fines and penalties for election law violations.

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

- 1 New Section; Election Procedure; Prohibited Acts; Intimidation of Election Officers. Amend RSA 659 by inserting after section 40-a the following new section:
 - 659:40-b Intimidation of Election Officers.
 - I. No person shall use or threaten force, violence, or any tactic of coercion or intimidation to knowingly discourage, interfere with, or compel any election officer, as defined in RSA 652:14, and other appointed individuals assisting at the polling place, such as ballot clerks and greeters, from engaging in or completing duties related to an election.
 - II. Whoever violates the provisions of this section or who conspires to violate the provisions of this section shall be guilty of a class B felony.
 - 2 New Subdivision; Penalties. Amend RSA 659 by inserting after section 103 the following new subdivision:

12 Penalties

13 659:104 Penalties.

- I. Where no other penalty is provided, whoever violates any provision of this chapter shall be subject to a civil penalty not less than \$250 nor more than \$1,000.
- II. The attorney general shall notify persons subject to this section of the state's intention to seek a civil penalty, and of the ability to negotiate with and to settle with such suspected violators without court action, provided that any civil penalty paid as settlement shall be paid to the secretary of state for deposit into the general fund.
 - 3 Political Expenditures and Contributions; Penalties. Amend RSA 664:21, V to read as follows:
- V.(a) Whoever violates any of the provisions of RSA 664:16-a [er the previsions of RSA 664:16-a [er the previsions of RSA 664:17 relative to removing, defacing, or destroying political advertising on private property] shall be subject to a civil penalty not to exceed \$1,000.
- (b) Whoever violates, or orders, aids, or abets a violation of RSA 664:17, relative to removing, defacing, or destroying political advertising on private property, shall be subject to a civil penalty of \$250 for each piece of political advertising removed, defaced, or destroyed, up to a maximum of \$2,000.
- (c) The court, upon petition of the attorney general, may levy upon any person who violates the provisions of RSA 664:16-a or [the provisions of] RSA 664:17 [relative to removing, defacing, or destroying political advertising on private property a civil penalty in an amount not to exceed \$1,000 per violation. All penalties assessed under this paragraph shall be paid to the

SB 405-FN - AS AMENDED BY THE SENATE - Page 2 -

1	secretary of state for deposit into the general fund] the civil penalties under subparagraphs (a)
2	and (b).
3	[(e)] (d) The attorney general shall [have authority to] notify suspected violators of RSA
4	664:16-a or [the previsions of] RSA 664:17 [relative to removing, defacing, or destroying political
5	advertising on private property] of the state's intention to seek a civil penalty, to negotiate, and to
6	settle with such suspected violators without court action[, provided any civil penalty paid as
7	settlement shall be paid to the secretary of state for deposit into the general fund].
8	4 New Paragraphs; Political Expenditures and Contributions; Penalties. Amend RSA 664:21 by
9	inserting after paragraph VII the following new paragraphs:
10	VIII.(a) Except as otherwise provided in this section, whoever violates, or orders, aids, or
11	abets a violation of any provision of this section or RSA 664:14 shall be subject to a civil penalty of
12	\$250 for each piece of political advertising removed, up to a maximum of \$2,000.
13	(b) The attorney general shall notify suspected violators of this section of the state's
14	intention to seek a civil penalty, to negotiate, and to settle with such suspected violators within the
15	civil penalty limits established in this section without court action.
16	(c) Whoever is subject to a civil penalty under this paragraph shall also be subject to the
17	payment of restitution for damages.
18	IX. Any individual, committee, or organization responsible for reporting under RSA 664:6,
19	664:6-a, and 664:7 that files a report with illegible material content shall receive a written warning
20	for a first offense and shall be charged a civil penalty of \$1,000 per offense for any subsequent

5 Effective Date. This act shall take effect January 1, 2023.

21

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offenses.

LBA 22-3052 12/22/21

SB 405-FN- FISCAL NOTE AS INTRODUCED

AN ACT

relative to fines and penalties for election law violations.

FISCAL IMPACT:

[X] State

[X] County

[] Local

[] None

	Estimated Increase / (Decrease)			
STATE:	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	[X] General	[] Education [] Highway	Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill modifies penalties for certain offenses related to elections. This bill contains penalties that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Council	FY 2022	FY 2023
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Felony	\$825/Case	\$825/Case
Assigned Counsel – Felony	\$60/Hour up to \$4,100	\$60/Hour up to \$4,100

It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. Historically, approximately 85% of the indigent defense caseload has been handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%). Beginning in March of 2021, the public defender program has had to close intake to new cases due to excessive caseloads. Due to these closures, the contract and assigned counsel program have had to absorb significantly more cases. The system is experiencing significant delays in appointing counsel and the costs of representation have increased due to travel time and multiple appointments.

Department of Corrections	FY 2022	FY 2023
FY 2021 Average Cost of	\$54,386	\$54,386

Incarcerating an Individual		
FY 2021 Annual Marginal Cost of a General Population Inmate	\$5,715	\$5,715
FY 2021 Average Cost of Supervising an Individual on Parole/Probation	\$603	\$603
NH Association of Counties	FY 2022	FY 2023
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$125	\$105 to \$125

This bill contains penalties that will have an indeterminable impact on the Judicial Branch system. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. In the past the Judicial Branch has used averaged caseload data based on time studies to estimate the fiscal impact of proposed legislation. The per case data on costs for routine criminal cases currently available to the Judicial Branch are based on studies of judicial and clerical weighted caseload times for processing average routine criminal cases that are more than fifteen years old so the data does not have current validity. A new case study is being conducted and updated estimates will be available in the future.

The Department of Justice indicates this bill would increase the work of the Election Law Unit as there would be additional prosecutions for the actions of intimidation of election officials and destroying political signs. There would also be additional actions taken against organizations and individuals who file illegible reports. At this time, the Department cannot determine the fiscal impact as the number of additional prosecutions is not known. The Department expects the Election Law Unit could manage the number of prosecutions with its current attorneys. The Department states there may be a need for additional investigative resources, however, this potential impact not known at this time.

AGENCIES CONTACTED:

Judicial Branch, Departments of Corrections and Justice, Judicial Council, and New Hampshire Association of Counties