HB 1181-FN - AS INTRODUCED

2020 SESSION

20-2241
04/05

HOUSE BILL 1181-FN

AN ACT allowing the New Hampshire public employer labor relations board to award pain and suffering damages.


COMMITTEE: Labor, Industrial and Rehabilitative Services

ANALYSIS

This bill allows the public employees labor relations board to award pain and suffering damages to a complainant.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
HB 1181-FN - AS INTRODUCED

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty

AN ACT allowing the New Hampshire public employer labor relations board to award pain and suffering damages.

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

1 1 Public Employees Labor Relations; Violations. Amend RSA 273-A:6, VI to read as follows:
2 VI. The board or its designee shall render its decision within 45 days after the hearing, in accordance with rules adopted by the board pursuant to RSA 541-A. Upon finding that a party has violated RSA 273-A:5, the board may (a) issue a cease and desist order; (b) order reinstatement of an employee with back pay; (c) require periodic reporting of compliance; (d) order payment of the costs incurred by a party negotiating in good faith in negotiations found by the board to have been carried on not in good faith by the other party, if the board finds such penalty appropriate to the circumstances; (e) award pain and suffering damages; or [(e)] (f) order such other relief as the board may deem necessary.

2 Effective Date. This act shall take effect 60 days after its passage.
AN ACT allowing the New Hampshire public employer labor relations board to award pain and suffering damages.

FISCAL IMPACT: [ X ] State   [ X ] County   [ X ] Local   [ ] None

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<th>STATE:</th>
<th>FY 2020</th>
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COUNTY:

| Revenue                      | Indeterminable | Indeterminable | Indeterminable | Indeterminable |
| Expenditures                 | Indeterminable | Indeterminable | Indeterminable | Indeterminable |

LOCAL:

| Revenue                      | Indeterminable | Indeterminable | Indeterminable | Indeterminable |
| Expenditures                 | Indeterminable | Indeterminable | Indeterminable | Indeterminable |

METHODOLOGY:

This bill allows the Public Employees Labor Relations Board (PELRB) to award pain and suffering damages to a complainant. The PELRB indicates under the current statutory framework the Board could conceivably award such damages to the employer, employees, or a bargaining unit’s exclusive representative. Since bill does not provide criteria or guidance as to the circumstances in which it is appropriate for the PELRB to award pain and suffering damages, the PELRB assumes it would refer to New Hampshire tort and contract law for guidance as applicable. The likely fiscal impact of this proposed legislation on State, County, and Local revenue and expenditures is difficult to assess and depends upon a number of unknown factors. These include the number of cases where a request for pain and suffering damages is made, the likelihood that the board will find that the award of such damages is appropriate in a particular case, the amount of damages, the availability of coverage under liability insurance policies to cover the cost of any pain and suffering damages award, and the impact the award of such damages may have on the cost of liability insurance policies. The
request for this remedy in a particular case may increase the amount of time parties and their representatives spend preparing for hearings, and may also extend the length of hearings in order to provide the parties with a fair opportunity to address such claims.

The New Hampshire Municipal Association states this bill authorizes the PELRB to award damages for pain and suffering resulting from an unfair labor practice. This creates the possibility of increased costs for public employers, including municipalities, in the event they are found to have committed an unfair labor practice. It is impossible to know when, if ever, such damages would be found to be appropriate, and what amounts might be awarded. Therefore, the Association is not able to determine the amount of any increased expenditures. There will be no effect on municipal revenues.

The New Hampshire Association of Counties assumes this bill could increase county costs, but indicates there is no way to determine those costs without knowing the potential award amounts number of cases.

AGENCIES CONTACTED:
Public Employees Labor Relations Board, New Hampshire Municipal Association and New Hampshire Association of Counties