HOUSE BILL 1325-FN-LOCAL

AN ACT relative to minutes and decisions in nonpublic sessions under the right-to-know law.


COMMITTEE: Judiciary

ANALYSIS

This bill requires that for meetings in nonpublic session where the minutes or decisions were determined to not be subject to public disclosure, a list shall be kept which shall include certain information. The list shall be made available for public disclosure.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
AN ACT relative to minutes and decisions in nonpublic sessions under the right-to-know law.

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

1 Right-to-Know Law; Nonpublic Sessions. Amend RSA 91-A:3, III to read as follows:

   III. Minutes of meetings in nonpublic session shall be kept and the record of all actions shall
be promptly made available for public inspection, except as provided in this section. Minutes of such
sessions shall record all actions in such a manner that the vote of each member is ascertained and
recorded. Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72
hours of the meeting, unless, by recorded vote of 2/3 of the members present taken in public session,
it is determined that divulgence of the information likely would affect adversely the reputation of
any person other than a member of the public body itself, or render the proposed action ineffective,
or pertain to terrorism, more specifically, to matters relating to the preparation for and the carrying
out of all emergency functions, developed by local or state safety officials that are directly intended
to thwart a deliberate act that is intended to result in widespread or severe damage to property or
widespread injury or loss of life. This shall include training to carry out such functions. In the event
of such circumstances, information may be withheld until, in the opinion of a majority of members,
the aforesaid circumstances no longer apply. For all meetings held in nonpublic session, where
the minutes or decisions were determined to not be subject to full public disclosure, a list of
such minutes or decisions shall be kept and this list shall be promptly made available for
public disclosure. This list shall identify the public body and include the date and time of
the meeting in nonpublic session, the specific exemption under paragraph II on its face
which is relied upon as foundation for the nonpublic session, the date of the decision to
withhold the minutes or decisions from public disclosure, and the date of any subsequent
decision, if any, to make the minutes or decisions available for public disclosure.

2 Effective Date. This act shall take effect January 1, 2021.
AN ACT relative to minutes and decisions in nonpublic sessions under the right-to-know law.

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

COUNTY:

<table>
<thead>
<tr>
<th>Revenue</th>
<th>$0</th>
<th>$0</th>
<th>$0</th>
<th>$0</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures</td>
<td>$0</td>
<td>Indeterminable Increase</td>
<td>Indeterminable Increase</td>
<td>Indeterminable Increase</td>
</tr>
</tbody>
</table>

LOCAL:

<table>
<thead>
<tr>
<th>Revenue</th>
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METHODOLOGY:

This bill requires that for meetings in nonpublic session where the minutes or decisions were determined to not be subject to public disclosure, a list shall be kept which shall include certain information. The list shall be made available for public disclosure.

The Department of Justice indicates this bill would likely result in additional requests for legal advice and training to be provided by existing Department attorneys. The purpose of such training would be to make state boards and agencies aware of the new requirements and how to comply with them. The Department states the training would be handled by the Civil Bureau and could be done within the current budget.

The New Hampshire Municipal Association states compiling and maintaining the list of information concerning nonpublic sessions will require additional staff time for municipalities. This may result in additional expenditures, but would depend on the specific circumstances of each municipality. The potential increase in expenditures cannot be determined. There will be no effect on municipal revenues.

The New Hampshire Association of Counties states the fiscal impact of this bill is indeterminable as it has no information on which to estimate the fiscal impact.

AGENCIES CONTACTED:
Department of Justice, New Hampshire Municipal Association and New Hampshire Association of Counties