SENATE BILL 561
AN ACT relative to the appointment of town clerks.

SPONSORS: Sen. Kahn, Dist 10; Sen. Ward, Dist 8; Sen. Levesque, Dist 12; Sen. Reagan, Dist 17

COMMITTEE: Election Law and Municipal Affairs

ANALYSIS

This bill provides for the appointment of town clerks.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
AN ACT relative to the appointment of town clerks.

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

1 Town Officers; Election or Appointment. Amend RSA 41:16 to read as follows:

41:16 Election and Bond. Every town, except those towns that have voted to appoint a town clerk under RSA 41:16-d, shall choose at the annual meeting, by ballot, a town clerk, who shall record all votes passed by the town while he or she remains in office, and discharge all the duties of the office according to law.

2 Removal of Elected Town Clerk. Amend the introductory paragraph of RSA 41:16-c to read as follows:

41:16-c Removal of Town Clerk. The governing body may institute proceedings to remove an elected town clerk from office whenever, upon examination by the department of revenue administration, a certified public accountant, or a public accountant licensed by the state under RSA 309-A, the accounts are found to contain an irregularity or material error, or show evidence that the timely deposit of funds has not been made in accordance with RSA 261:165. For the purposes of this section, "irregularity" means an intentional misstatement of the financial statements or a theft of assets, and "material error" means a mistake or omission resulting from gross negligence which results in a material misstatement of the financial statements. The governing body may institute proceedings to remove the elected town clerk as follows:

3 New Paragraph; Removal of Town Clerk. Amend RSA 41:16-c by inserting after paragraph VI the following new paragraph:

VII. An appointed town clerk may be removed pursuant to this section, in addition to any other manner of removal permitted by law.

4 New Section; Appointed Town Clerk. Amend RSA 41 by inserting after section 16-c the following new section:

41:16-d Appointed Town Clerk.

I. Any town may, under an article in the warrant for the annual town meeting, vote to authorize the appointment rather than the election of a town clerk. In the case of a town that has adopted a charter under RSA 49-D, the charter may provide for the appointment of the clerk. Upon approval of such warrant article or charter provision, the office of elected town clerk shall be discontinued as provided in RSA 669:17-e.

II. Appointment shall be made either by the board of selectmen or, in the case of a town operating under RSA 37, upon recommendation of the town manager with approval of the board of selectmen. Whenever the selectmen or manager appoints the town clerk, such appointment shall be
made in writing and shall include the compensation to be paid. Any town may rescind the vote to
appoint a town clerk under an article in the warrant for the annual town meeting. If such article to
rescind the appointment of a town clerk is approved, then the town shall reinstate the office of
elected town clerk and shall fill the vacancy in accordance with RSA 669:65.

5 Deputy Town Clerk. Amend RSA 41:18 to read as follows:

41:18 Deputy Town Clerk. Each town may have a deputy town clerk who shall be qualified in
the same manner as the town clerk and who shall perform all the duties of the town clerk in case of
his or her absence by sickness, resignation, or otherwise subject to the provisions of RSA 669:65. A
deputy town clerk appointed hereunder shall be appointed by the [elected] town clerk with the
approval of the selectmen.

6 New Paragraph; Town Clerk-Tax-Collector Combined. Amend RSA 41:45-a by inserting after
paragraph II the following new paragraph:

III. If a town that has combined the offices of town clerk and tax collector subsequently
votes, pursuant to RSA 41:16-d, to authorize the appointment rather than election of the town clerk,
the 2 offices shall be separated and the terms for the respective offices shall be as provided in RSA
669:17-e.

7 Election by Ballot; Town Clerk. Amend RSA 669:15, IV to read as follows:

IV. Town clerk (RSA 41:16 through 16-b), unless provision has been made for
appointment under RSA 41:16-d.

8 New Section; Discontinuing Office of Elected Town Clerk. Amend RSA 669 by inserting after
section 17-d the following new section:

669:17-e Discontinuing Office of Elected Town Clerk. When a town votes to discontinue an
elected town clerk office, the person holding the office of elected town clerk at the time of the vote to
discontinue it shall continue to hold office until the annual town election first following the vote, at
which time the office of elected town clerk shall terminate irrespective of the length of that officer's
term. If the offices of town clerk and tax collector were combined prior to the vote, the 2 offices shall
be separated and the person holding the combined offices shall continue to hold the office of tax
collector until what would have been the expiration of that person's term for the combined offices.

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