

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ORVILLE B. "BUD" FITCH II
DEPUTY ATTORNEY GENERAL

SECTION 5 VOTING SUBMISSION

TO: Chief, Voting Section
Civil Rights Division
Room 7254 – NWB
Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530

DATE: July 26, 2010

RE: Submissions Under Section 5 of the Voting Rights Act for:
Laws of 2003, Chapter 172

Dear Voting Section Chief:

Pursuant to 42 U.S.C. § 1973(c), the State of New Hampshire, through the Office of the New Hampshire Attorney General, hereby submits **Laws of 2003, Chapter 172**, relative to prohibited election day activity and electioneering by public employees, for preclearance by the U.S. Department of Justice.

Submission: In accordance with 28 CFR §51.27 and 51.28, the submission is as follows:

(a) A copy of any ordinance, enactment, order, or regulation embodying a change affecting voting (new law).

Laws of 2003, Chapter 172, enacting RSA 659:40-a and RSA 659:44-a. See Attached Exhibit 2003:172, #1.

(b) A copy of any ordinance, enactment, order, or regulation embodying the voting practice that is proposed to be repealed, amended or otherwise changed (prior law).

Both changes establish new statutes and new practices in New Hampshire, there are no prior statutes.

(c) A clear statement of the change explaining the difference between the submitted change and the prior law or practice, or explanatory materials adequate to disclose to the Attorney General the difference between the prior and proposed situation with respect to voting.

Both changes establish new statutes and new practices in New Hampshire.

Section 1 makes it a crime to knowingly block or solicit another to block access by a candidate or candidate's committee to communications equipment or services with an intent of interfering with campaign activity. This practice is established in part to make it a crime to block use of campaign phone lines by causing repeated inbound calls to be made to the phones.

Section 2 makes it a crime for specified public employees to use taxpayer funded time, equipment, or supplies to electioneer. Previously only theft statutes were potentially violated were a government employee to use government funded resources to campaign for a candidate or electioneer on a question on the ballot.

(d) The name, title, address, and telephone number of the person making the submission.

Orville B. Fitch II, Deputy Attorney General
New Hampshire Attorney General's Office
33 Capitol Street
Concord, New Hampshire 03301
(603) 271-1238

Between 8/1/2010 and 8/31/2010 contact:

Richard Head, Associate Attorney General
New Hampshire Attorney General's Office
33 Capitol Street
Concord, New Hampshire 03301
(603) 271-1248

(e) The name of the submitting authority and the name of the jurisdiction responsible for the change, if different.

Attorney General Michael A. Delaney
State of New Hampshire

(f) If the submission is not from a State or county, the name of the county and State in which the submitting authority is located.

Not applicable

(g) Identification of person or body responsible for making the change and the mode of decision (e.g. act of state legislature, ordinance of city council, administrative decision by the registrar).

This change is an act of the New Hampshire General Court, New Hampshire's state legislature, with approval of the legislation by the Governor of the State of New Hampshire.

(h) A statement identifying the statutory or other authority under which the jurisdiction undertakes the change and a description of the procedures the jurisdiction was required to follow in deciding to undertake the change.

The New Hampshire Constitution Part Second, Article 2, grants supreme legislative power within the state to the House of Representatives and Senate, who with a right to negate each other are granted power to make law through Part Second, Article 5. The legislature, through a bicameral process passed each Chapter Law set forth above. Each bill was signed into law by the Governor or allowed to become law without signature, pursuant to New Hampshire Constitution Part Second, Article 44.

(i) The date of adoption of the change affecting voting.

June 18, 2003, without signature of the Governor.

(j) The date on which the change is to take effect.

June 18, 2003.

(k) A statement that the change has not yet been enforced or administered, or an explanation of why such a statement cannot be made.

This change to New Hampshire's voting laws has been enforced or administered.

As was exhaustively addressed in a 2004 letter to the federal Department of Justice, New Hampshire is engaged in an effort to catch up on preclearance submissions. This change is being submitted now to "catch up" the preclearance as there is a change in this act related to the subject of a 2010 change, preclearance for which is being sought simultaneously through submission 2010:182.

(l) Where the change will affect less than the entire jurisdiction, an explanation of the scope of the change.

This change affects the entire State of New Hampshire.

(m) A statement of the reasons for the change.

Section 1 was enacted to create a specific State crime for interfering with communications following a “phone jamming” incident that was investigated and prosecuted under federal law, in part, due to the absence of directly applicable state law.

Section 2 was enacted to create a specific State crime prohibiting covered state employees from using government paid time or government funded resources to electioneer.

(n) A statement of the anticipated effect of the change on members of racial or language minority groups.

There is no anticipated adverse effect on members of racial or language minority groups.

(o) Identify any past or pending litigation concerning the change or related voting practice.

There is no known past or pending litigation concerning these changes or related voting practices.

(p1) A Statement that the prior practice has been precleared, with the date, or is not subject to the preclearance requirement and

No preclearance for the prior practice was required because these are new provisions of law establishing new practices.

(p2) A statement that the procedure for the adoption of the change has been precleared, with the date, or is not subject to the preclearance requirement, or an explanation of why such statements cannot be made.

New Hampshire’s Constitution, in its current form, was adopted June 2, 1784, four years before the United States Constitution took effect upon its ratification by New Hampshire on June 21, 1788. No amendments to Part Second, article 2 or Part Second, article 44 have occurred since 1784, therefore the authority for adopting law

changes predates New Hampshire's ten towns becoming subject to Preclearance on effective November 1, 1968.

(q) For redistrictings and annexations.

Not applicable.

(r) Supplemental

None.

§51.28 (g) Public notice that announce the submission to the Attorney General, inform the public that a complete duplicate copy of the submission is available for public inspection and invites comments for the consideration of the Attorney General and statements regarding where such public notices appeared.

Exhibit A is a copy of a press release issued July 19, 2010 announcing the 2010 round of Preclearance submissions, the availability of copies at the New Hampshire Attorney General's Website and Office, and inviting comments to the United States Attorney General.

I expect the foregoing information is sufficient to enable the United States Attorney General to make the required determination pursuant to Section 5 of the Voting Rights Act. If further information is required or would be helpful, please contact me.

Very truly yours,



Orville B. Fitch II
Deputy Attorney General
bud.fitch@doj.nh.gov
(603) 271-1238

Attachments

CC: Secretary of State William M. Gardner

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THE UNIVERSITY OF CHICAGO

DEPARTMENT OF POLITICAL SCIENCE

PH.D. THESIS

THE POLITICAL ECONOMY OF THE GREAT RECESSION

BY [Name]

ADVISOR: [Name]



DATE: [Date]



CHAPTER 172

HB 605-FN - FINAL VERSION

25mar03... 0732h

05/22/03 1639s

2003 SESSION

03-1010

03/09

HOUSE BILL **605-FN**

AN ACT relative to prohibited election day activity and relative to electioneering by public employees.

SPONSORS: Rep. Buckley, Hills 56

COMMITTEE: Election Law

AMENDED ANALYSIS

This bill prohibits blocking the access of any candidate or committee to communications equipment or services on election day. This bill also prohibits public employees from electioneering while in the performance of their official duties or using government property for electioneering.

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.

25mar03... 0732h

05/22/03 1639s

03-1010

03/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to prohibited election day activity and relative to electioneering by public employees.

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

172:1 New Section; Election Procedure; Prohibited Acts; Interference With Communications. Amend RSA 659 by inserting after section 40 the following new section:

659:40-a Interference With Communications. Any person who, on the day of any election, knowingly blocks, or solicits another person to block, the access of any candidate or committee to the candidate's or the committee's communications equipment or services with the intent of interfering with campaign activity shall be guilty of a class A misdemeanor.

172:2 New Section; Electioneering by Public Employees. Amend RSA 659 by inserting after section 44 the following new section:

659:44-a Electioneering by Public Employees. No public employee, as defined in RSA 273-A:1, IX, shall electioneer while in the performance of his or her official duties or use government property, including, but not limited to, telephones, facsimile machines, vehicles, and computers, for electioneering. For the purposes of this section, "electioneer" means to act in any way specifically designed to influence the vote of a voter on any question or office. Any person who violates this section shall be guilty of a misdemeanor.

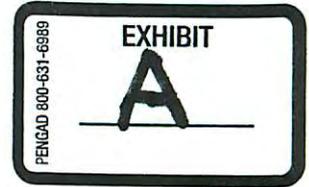
172:3 Effective Date. This act shall take effect upon its passage.

(Approved: Enacted in accordance with Article 44, Part II, N.H. Constitution, without signature of Governor, June 18, 2003)

(Effective Date: June 18, 2003)

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MICHAEL A. DELANEY
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DEPUTY ATTORNEY GENERAL

News Release

RELEASED BY: Attorney General Michael A. Delaney

SUBJECT: Voting Rights Act – Submissions of requests for preclearance of 2010 changes to New Hampshire Voting laws and procedures

DATE: July 19, 2010

RELEASE TIME: Immediate

Contact: Deputy Attorney General Bud Fitch (603) 271-1238

Attorney General Michael A. Delaney announces the submission of requests for preclearance of changes made to the election laws in New Hampshire to the Federal Department of Justice. Preclearance submissions will address changes made to New Hampshire's election laws since jurisdictions in the State became subject to preclearance. Submissions will be made over the next several weeks until all 2010 changes to New Hampshire's election laws have been submitted.

Ten New Hampshire towns are subject to section 5 of the federal Voting Rights Act. Changes to New Hampshire election laws that affect any of these ten towns must be submitted for review by either the Federal Department of Justice or the Federal District Court for Washington D.C. The federal Department of Justice will review the changes to New Hampshire's election laws to ensure that the changes do not have the effect of denying or abridging the right to vote on account of race or color, or membership in a language minority group. Changes to New Hampshire redistricting statutes have been submitted to, and approved by, the U.S. Justice Department since the 1980 census. The State has submitted preclearance requests for most of the changes made to New Hampshire voting law and is in the process of completing that updating of preclearance.

Federal regulations require that the public be notified that the State has filed requests for preclearance and that the submissions be available for public inspection.

Copies of each submission by the Attorney General for the State of New Hampshire are available at the office of the Attorney General at 33 Capitol Street, Concord New Hampshire, 03301. Each document will also be made available at the Attorney General's Office web site at:

<http://www.doj.nh.gov/elections/>

Attorney General Delaney and the federal Department of Justice invite persons interested in pending submissions to submit comments and information, in writing or by telephone, to the Voting Section of the Civil Rights Division at the earliest possible date to assure that they may be considered during the preclearance review time period. Telephone 1-800-253-3931 or (202) 307-2385 or write Chief, Voting Section, Civil Rights Division, Room 7254 - NWB, Department of Justice, 950 Pennsylvania Ave., NW, Washington D.C. 20530 (the envelope and first page should be marked "Comment under Section 5"). Further information on the federal Department of Justice's Voting Rights Section can be found at:

<http://www.justice.gov/crt/voting/>

The New Hampshire Attorney General's Office Voting section can be contacted at:

<http://www.doj.nh.gov/elections/>
New Hampshire Toll Free 1-866-8868-3703
or 1-866-VOTER03
electionlaw@doj.nh.gov

A Letter describing the historical circumstances of the ten New Hampshire towns becoming subject to the Voting Rights Act preclearance requirements, originally sent to the federal Department of Justice in 2004, is available at:

<http://www.doj.nh.gov/elections/>

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