

**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 2005, Chapter 187

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 2005, Chapter 187**, relative to Disposition and Retention Schedule, 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 2005, Chapter 187, enacting RSA 33-A:3-a. See Attached Exhibit 2005:187, #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(b) A copy of any ordinance, enactment, order, or regulation embodying the voting practice that is proposed to be repealed, amended or otherwise changed (prior law).

None. Laws of 2005, Chapter 187 enacted a new section of law. To the extent that law established specific retention periods for records, those requirements were set

forth in statutes specific to the subject matter and are not the subject of this preclearance request.

(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.

This change establishes minimum retention periods for municipal records, including election related records in sections XXXVI through XXXVIII and CXL through CXLI.

(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 30, 2005.

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

August 29, 2005.

(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 2010 change to this statute, preclearance for which is being sought simultaneously through submission 2010:172.

(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.

This change establishes a comprehensive statute defining the periods of time during which municipal records must be retained, which explicit addresses election related records in sections XXXVI through XXXVIII and CXL through CXLI.

(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

This statute is new, there is no direct prior statute and to the extent that the practice of retaining election records is addressed in New Hampshire law those statutes are the subject of separate preclearance submissions – see 2010:172 which detail the preclearance history. 2010:172 is being submitted simultaneously with this submission.

(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

494427.doc

1. The Commission has received the application for the position of...

2. The Commission has reviewed the application and the documents...

3. The Commission has decided to recommend the applicant for the position...

[Handwritten signature]
Name of the official
Title of the official
Date

4. The Commission has decided to recommend the applicant for the position...



CHAPTER 187

HB 437 – FINAL VERSION

30Mar2005... 0372h

2005 SESSION

05-0428

05/10

HOUSE BILL **437**

AN ACT relative to the disposition of municipal records.

SPONSORS: Rep. N. Allan, Hills 26; Rep. Pilotte, Hills 16; Rep. O'Neil, Rock 15

COMMITTEE: Municipal and County Government

ANALYSIS

This bill codifies the retention schedule for municipal records, establishes criteria for the retention of electronic records, and makes related technical changes to the law governing the disposition of municipal records.

The bill is a request of the secretary of state.

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.

30Mar2005... 0372h

05-0428

05/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Five

AN ACT relative to the disposition of municipal records.

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

187:1 New Paragraph; Disposition of Municipal Records; Definition of "Active" Added. Amend RSA 33-A:1 by inserting after paragraph IV the following new paragraph:

V. "Active" means until termination or expiration of obligations or services, cessation of need for further attention, and completion or release of any pending legal processes.

187:2 Municipal Committees; Reference to Rulemaking Deleted. Amend RSA 33-A:3 to read as follows:

33-A:3 Municipal Committees. The municipal officers or their designee together with the clerk, treasurer, assessors and tax collector of each city or town shall constitute a committee to govern the disposition of municipal records pursuant to ~~[the rules promulgated by the municipal records board and the standards established by]~~ this chapter. *The committee shall designate the office responsible for the retention of each type of record created for the municipality.*

187:3 New Section; Disposition and Retention Schedule. Amend RSA 33-A by inserting after section 3 the following new section:

33-A:3-a Disposition and Retention Schedule. The municipal records identified below shall be retained, at a minimum, as follows:

I. Abatements: 5 years.

II. Accounts receivable: until audited plus one year.

III. Aerial photographs: permanently.

IV. Airport inspections-annual: 3 years.

V. Airport inspections-daily, including fuel storage and vehicles: 6 months.

VI. Annual audit report: 10 years.

VII. Annual reports, town warrants, meeting and deliberative session minutes in towns that have adopted official ballot voting: permanently.

VIII. Archives: permanently.

IX. Articles of agreement or incorporation: permanently.

X. Bank deposit slips and statements: 6 years.

XI. Blueprints-architectural: life of building.

XII. Bonds and continuation certificates: expiration of bond plus 2 years.

XIII. Budget committee-drafts: until superseded.

XIV. Budgets: permanently.

XV. Building permits-applications and approvals: permanently.

XVI. Building permits-lapsed: permanently.

XVII. Building permits-withdrawn, or denied: one year.

XVIII. Capital projects and fixed assets that require accountability after completion: life of project or

purchase.

XIX. Cash receipt and disbursement book: 6 years after last entry, or until audited.

XX. Checks: 6 years.

XXI. Code enforcement specifications: permanently.

XXII. Complaint log: expiration of appeal period.

XXIII. Contracts-completed awards, including request for purchase, bids, and awards: life of project or purchase.

XXIV. Contracts-unsuccessful bids: completion of project plus one year.

XXV. Correspondence by and to municipality-administrative records: minimum of one year.

XXVI. Correspondence by and to municipality-policy and program records: follow retention requirement for the record to which it refers.

XXVII. Correspondence by and to municipality-transitory: retain as needed for reference.

XXVIII. Current use applications and maps: until removed from current use plus 3 years.

XXIX. Current use card: until removed from current use plus 3 years.

XXX. Deed grantee/grantor listing from registry, or copies of deeds: discard after being updated and replaced with a new document.

XXXI. Deferred compensation plans: 7 years.

XXXII. Dig safe forms: 4 years.

XXXIII. Dredge and fill permits: 4 years.

XXXIV. Driveway permits and plans: permanently.

XXXV. Easements awarded to municipality: permanently.

XXXVI. Elections-federal elections ballots: 22 months after election.

XXXVII. Elections-not federal, all other ballots: 60 days after election.

XXXVIII. Elections-challenge affidavits: one year after election.

XXXIX. Elections-ward maps: until revised plus 1 year.

XL. Emergency medical services run reports: 10 years.

XLI. Equipment maintenance: life of equipment.

XLII. Excavation tax warrant and book or list: permanently.

- XLIII. Federal form 1099s and W-2s: 7 years.
- XLIV. Federal form 941: 7 years.
- XLV. Federal form W-1: 4 years.
- XLVI. Fire calls/incident reports: 10 years.
- XLVII. Grants, supporting documentation: follow grantor's requirements.
- XLVIII. Grievances: expiration of appeal period.
- XLIX. Health-complaints: expiration of appeal period.
- L. Health-inspections: 3 years.
- LI. Health-service agreements with state agencies: term plus 7 years.
- LII. Health and human services case records: active plus 7 years.
- LIII. Inspections-bridges and dams: permanently.
- LIV. Insurance policies: permanently.
- LV. Intent to cut trees or bushes: 3 years.
- LVI. Intergovernmental agreements: end of agreement plus 3 years.
- LVII. Investigations-fire: permanently.
- LVIII. Invoice, assessors: permanently.
- LIX. Invoices and bills: until audited plus one year.
- LX. Job applications-successful: retirement or termination plus 50 years.
- LXI. Job applications-unsuccessful: current year plus 3 years.
- LXII. Labor-public employees labor relations board actions and decisions: permanently.
- LXIII. Labor union negotiations: permanently or until contract is replaced with a new contract.
- LXIV. Ledger and journal entry records: until audited plus one year.
- LXV. Legal actions against the municipality: permanently.
- LXVI. Library:
 - (a) Registration cards: current year plus one year.
 - (b) User records: not retained; confidential pursuant to RSA 201-D:11.
- LXVII. Licenses-all other except dog, marriage, health, and vital records: duration plus 1 year.

- LXVIII. Licenses-dog: current year plus one year.
- LXIX. Licenses-dog, rabies certificates: disposal once recorded.
- LXX. Licenses-health: current year plus 6 years.
- LXXI. Liens-federal liens upon personal property, other than IRS liens: permanently.
- LXXII. Liens-hospital liens: 6 years.
- LXXIII. Liens-IRS liens: one year after discharge.
- LXXIV. Liens-tax liens, state liens for support of children: until court order is lifted plus one year.
- LXXV. Liens-tax liens, state meals and rooms tax: until release plus one year.
- LXXVI. Liens-tax sale and record of lien: permanently.
- LXXVII. Liens-tax sales/liens redeemed report: permanently.
- LXXVIII. Liens-Uniform Commercial Code leases: lease term plus 4 years; purge all July 1, 2007.
- LXXIX. Liens-Uniform Commercial Code security agreements: 6 years; purge all July 1, 2007.
- LXXX. Meeting minutes, tape recordings: keep until written record is approved at meeting. As soon as minutes are approved, either reuse the tape or dispose of the tape.
- LXXXI. Minutes of boards and committees: permanently.
- LXXXII. Minutes of town meeting/council: permanently.
- LXXXIII. Minutes, selectmen's: permanently.
- LXXXIV. Motor vehicle-application for title: until audited plus one year.
- LXXXV. Motor vehicle-titles and voided titles: sent to state division of motor vehicles.
- LXXXVI. Motor vehicle permits-void and unused: until audited plus one year.
- LXXXVII. Motor vehicle permits and registrations-used: current year plus 3 years.
- LXXXVIII. Municipal agent daily log: until audited plus one year.
- LXXXIX. Notes, bonds, and municipal bond coupons-cancelled: until paid and audited plus one year.
- XC. Notes, bonds, and municipal bond coupon register: permanently.
- XCI. Oaths of office: term of office plus 3 years.
- XCII. Ordinances: permanently.
- XCIII. Payrolls: until audited plus one year.

- XCIV. Perambulations of town lines-copy kept by town and copy sent to secretary of state: permanently.
- XCV. Permits or licenses, pole: permanently.
- XCVI. Personnel files: retirement or termination plus 50 years.
- XCVII. Police, accident files-fatalities: 10 years.
- XCVIII. Police, accident files-hit and run: statute of limitations plus 5 years.
- XCIX. Police, accident files-injury: 6 years.
- C. Police, accident files-involving arrests: 6 years.
- CI. Police, accident files-involving municipality: 6 years.
- CII. Police, accident files-property damage: 6 years.
- CIII. Police, arrest reports: permanently.
- CIV. Police, calls for service/general service reports: 5 years.
- CV. Police, criminal-closed cases: statute of limitations plus 5 years.
- CVI. Police, criminal-open cases: statute of limitations plus 5 years.
- CVII. Police, motor vehicle violation paperwork: 3 years.
- CVIII. Police, non-criminal-internal affairs investigations: as required by attorney general and union contract and town personnel rules.
- CIX. Police, non-criminal-all other files: closure plus 3 years.
- CX. Police, pistol permit applications: expiration of permit plus one year.
- CXI. Property inventory: 5 years.
- CXII. Property record card: permanently.
- CXIII. Property record map, assessors: until superceded.
- CXIV. Property tax exemption applications: transfer of property plus one year.
- CXV. Records management forms for transfer of records to storage: permanently.
- CXVI. Road and bridge construction and reconstruction, including highway complaint slips: 6 years.
- CXVII. Road layouts and discontinuances: permanently.
- CXVIII. Scenic roads: permanently.
- CXIX. School records: retained as provided under RSA 189:29-a.

- CXX. Septic plan approvals and plans: until replaced or removed.
- CXXI. Sewer system filtration study: permanently.
- CXXII. Sign inventory: 7 years.
- CXXIII. Site plan review: life of improvement plus 3 years.
- CXXIV. Site plan review-lapsed: until notified that planning board action and appeal time has expired plus one year.
- CXXV. Site plan review-withdrawn or not approved: appeal period plus one year.
- CXXVI. Special assessment (betterment of property): 20 years.
- CXXVII. Street acceptances: permanently.
- CXXVIII. Street signs, street lights and traffic lights-maintenance records: 10 years.
- CXXIX. Subdivision applications-lapsed: until notified that planning board action and appeal period has expired plus one year.
- CXXX. Subdivision applications-successful and final plan: permanently.
- CXXXI. Subdivision applications-withdrawn, or not approved: expiration of appeal period plus one year.
- CXXXII. Subdivision applications-working drafts prior to approval: expiration of appeal period.
- CXXXIII. Summary inventory of valuation of property: one year.
- CXXXIV. Tax maps: permanently.
- CXXXV. Tax receipts paid, including taxes on land use change, property, resident, sewer, special assessment, and yield tax on timber: 6 years.
- CXXXVI. Tax-deeded property file (including registered or certified receipts for notifying owners and mortgagees of intent to deed property): permanently.
- CXXXVII. Time cards: 4 years.
- CXXXVIII. Trust fund minutes, quarterly reports, and bank statements: permanently.
- CXXXIX. Vehicle maintenance records: life of vehicle plus 2 years.
- CXL. Voter checklist-marked copy kept by town pursuant to RSA 659:102: 5 years.
- CXLI. Voter registration:
- (a) Purged record cards: 5 years.
 - (b) Same day, returned to undeclared status: 5 years.
- CXLII. Vouchers and treasurers receipts: until audited plus one year.

CXLIII. Warrants-land use change, and book or list: permanently.

CXLIV. Warrants-property tax, and lists: permanently.

CXLV. Warrants-resident tax, and book or list: permanently.

CXLVI. Warrants-town meeting: permanently.

CXLVII. Warrants-treasurer: until audited plus one year.

CXLVIII. Warrants-utility and betterment tax: permanently.

CXLIX. Warrants-yield tax, and book or list: permanently.

CL. Welfare department vouchers: 4 years.

CLI. Work program files: current year plus 6 years.

CLII. Writs: expiration of appeal period plus one year.

CLIII. Zoning board of adjustment applications, decisions, and permits-unsuccessful: expiration of appeal period.

187:4 Powers and Duties of Municipal Records Board; Reference to Rulemaking Deleted. Amend RSA 33-A:4-b to read as follows:

33-A:4-b Powers and Duties of Board. The board shall ~~[by rule establish]~~ *advise the secretary of state on standards[;] and procedures[;—and regulations]* for the effective and efficient management of municipal records. Such standards[;] *and procedures[;—and regulations]* shall govern the retention, preservation and disposition of municipal records. ~~[The statutory standards for retention, preservation and disposition of municipal records in effect at the time of passage of this section shall remain effective until superseded by rules promulgated by the board.]~~ The board shall oversee the local government records management improvement program as provided in RSA 5:47-5:51.

187:5 New Section; Disposition of Municipal Records; Electronic Records. Amend RSA 33-A by inserting after section 5 the following new section:

33-A:5-a Electronic Records. Records created in electronic format and designated on the disposition schedule under RSA 33-A:3-a to be retained for more than 10 years shall be transferred to paper, microfilm, or both. Electronically-created records designated on the disposition schedule to be retained for less than 10 years may be retained solely electronically if so approved by the record committee of the municipality responsible for the records. The municipality is responsible for assuring the accessibility of the records for the mandated period.

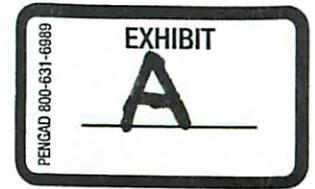
187:6 Effective Date. This act shall take effect 60 days after its passage.

(Approved: June 30, 2005)

(Effective Date: August 29, 2005)

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397



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 1-866-868-3703
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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