Feb 10, 2020

Why the “Appearance of Impropriety” Matters

A hearing this past week in the House Legislative Administration committee raises a question: Does the appearance of impropriety matter for legislators and lobbyists? There were six bills heard in the hearing regarding lobbyists, including bills on requiring electronic submission of reports, penalties for noncompliance with regulations, requiring legible handwriting submission of reports, and banning lobbyists from offering a post-legislative job to current legislator for a time, a committee to review rules applying to lobbyists. All the bills were voted Inexpedient to Legislate, or ITL, but the offering a job, which was designated an “interim study” bill (where bills go to die). But it was the dismissive nature of the conversations which was alarming. It was clear from the discussion that the committee had no appetite to address even the most basic rules for lobbyists. Lobbyists are all great people here in New Hampshire, right?

Another bill, heard in Senate Election Law & Municipal Affairs on January 22, SB 490 was heard. SB 490 bans donations from any company or individual bidding for a current state contract. Our Executive Council approves thousands of contracts over the course of a year, and we’ve heard stories of donation coming just before or just after a contract was heard in a Council session. As with the lobbyist bills, there doesn’t seem to be any appetite to fix for something which hasn’t yet become a scandal yet.

States around the nation have implemented common sense reforms to give their voters confidence that their legislators are working in their best interest, and those who are trying to influence the system are kept honest in a notoriously dirty business. Even the appearance of impropriety matters to voters, who will throw up their hands and say, “Why should I vote – they’re all corrupt!”

New Hampshire’s laws on campaign finance, redistricting, lobbying, transparency and disclosure – and the enforcement of those rules – are woefully limited. After years of gerrymandering, money-is-free-speech bills, and recent vetoes of common sense Democracy reforms, our legislature should be working hard to rebuild confidence. We SHOULD be plugging the holes in our patchwork of incomplete and in many cases nonexistent rules, and maybe, just maybe, restore confidence in our government.

Last Week’s Hearings

Wednesday, February 5

HOUSE ELECTION LAW, Hearing Room 308, LOB 11:00 a.m. Executive session on: HB 1214, permitting certain political organizations to appear on a general election ballot after holding a nominating convention. The bill would have allowed political parties not receiving 4% of the vote or higher the ability to apply to have their candidates added to the ballot. The committee did not agree and voted ITL, 18-0, killing the bill.
HB 1299, relative to selectmen pro tem on state election day; NH law requires at least one selectman to be present during elections, but this bill would have allowed the “Selectman pro tem” to serve if the elected selectmen could not attend. The bill was voted Inexpedient to Legislate.

HB 1357, relative to the distribution of campaign materials inside a polling place; This bill amends a current rule on the distribution of literature at the polls, adding this language: “No person who is a candidate for office or who is representing or working for a candidate shall distribute any campaign materials or perform any electioneering activities or any activity which affects the safety, welfare and rights of voters within a corridor 10 feet wide and extending a distance from the entrance door of the building as determined by the moderator where the election is being held, or within a polling place.” The bill moves forward, Ought to Pass, 19-0.

HB 1403, relative to removing party columns from general election ballots; The bill would have repealed existing rules on how ballots were organized, removing the party columns for the general election. The proposal was rejected in an 18-1 ITL vote.

HB 1457-FN-L, requiring election officers and supervisors of the checklist to visit skilled nursing facilities and elderly and disabled residences within their jurisdiction for the purpose of assisting with voter registration and casting absentee ballots; The bill was voted 20-0 for Interim Study, which generally means it’s unlikely to see the light of day.

HB 1531, relative to the release of voting information in a presidential election. HB 1531 prohibits any official in the state or its contractors from releasing the total votes cast in the general election for President, and leaves that duty to the Secretary of State only when the count has been completed. ITL 20-0.

HB 1643 relative to permissible campaign contributions by business organizations and labor unions and relative to funding source disclosure for political advertising. HB 1643 attempts to fix and restore a bill from a decade ago which blocked campaign donations from entities like corporations or LLCs directly to candidates. This bill still allows contributions from business organizations, but those contributions must come from a political action committee which operates independently of the business organization, and be paid for through restricted funds, not the general fund. This bill also continues to ban union organizations from direct contributions, which was part of the original bill. The bill was recommended Ought to pass, 13-7.

ODA Priority Bill

HCR 8, celebrating August 26, 2020 as the 100th anniversary of the 19th Amendment, which guarantees that the right to vote shall not be denied on the basis of sex. The bill passed 20-0.

LEGISLATIVE ADMINISTRATION, Room 303, LOB, 1:00 p.m. Executive session on:
As noted in our opening note, Lobbying reform was a bit of a bloodbath last week, with the Legislative Administration committee showing no recognition that reforms common in other states are relevant here.

HB 1358, relative to the identification of lobbyists. Orange badges for lobbyists are required in the State House, but if a lobbyist contacts a legislator by phone, or meets them outside of the State House, this bill would have required the lobbyist to identify himself or herself. The committee did not agree, voting to ITL the bill 10-3.

HB 1359, relative to employment as a lobbyist; HB 1359 would restrict legislators from becoming lobbyists for a time twice the length of their term, and applies to House, Senate, Executive Council or Governor. The bill also disallows legislators from receiving job offers from lobbyists. While the 12-1 for Interim Study means it’s not dead, it’s not likely to move forward.
HB 1183, establishing a committee to study the registration of lobbyists; NH is behind most states in lobbying regulations. This bill attempted to create a legislative study committee to review our current law and recommend additional sensible rules. According to the Legislative Administration committee, there is no need for event a review, and the bill went down to a 13-0 ITL recommendation. **ODA Priority Bill**

HB 1413, requiring lobbyist forms submitted in writing to be legible. This has been an issue with campaign finance donation reports, not as much with lobbyists. However, this would be moot anyway, if the Secretary of States office received the four reports required each year to be submitted electronically. **ODA Priority Bill**

HB 1584, relative to the penalty for failure to comply with the requirements for lobbyists; As stated, a penalty is added to current legislation for noncompliance for existing rules, making it a misdemeanor. The committee disagreed, voting 12-1 in favor of an Inexpedient to Legislate motion. **ODA Priority Bill**

HB 1669-FN, requiring electronic filing of lobbyist’s forms and statements. We at Open Democracy Action think this is a no-brainer. Estimates from the Secretary of State’s staff indicates that two full days of scanning and posting is necessary to make the reports public. Just from a fiscal standpoint, this is solid policy, but the added transparency and accuracy is something voters should demand. The committee, however, disagreed and voted to ITL the bill, 13-0. **ODA Priority Bill**

**This Week’s Sessions**

**House Session, Representatives Hall, State House, Thurs., Feb. 13 at 1:00 pm**

At 2:00 p.m., the House and Senate will assemble in joint session to receive the Governor’s State-of-the State Address. Following the Governor’s speech, the House will go back into session to act on pending legislation. Please also plan on Wednesday, February 19th and Thursday, February 20th for session.

Considered will be HB 1288, relative to the form of a candidate’s name on the official ballot in nonpartisan town elections. Rep. Jim Maggiore for Municipal and County Government said, “Many candidates are well-known by a nickname, “Renny,” “Jim,” “Liz,” “Kate,” etc., but they may not be as well-known by their given name. This bill ensures that a person’s surname must appear on the ballot and therefore the candidate’s name recognition is preserved.” A note that in 2004, Doris Haddock had to legally change her name to Doris Granny D Haddock in order for it to appear on the ballot when she opposed Senator Judd Gregg. The vote of the committee was Ought to Pass, 19-1, and the bill is on the Consent calendar.

Another bill before the full House this week is HB 1568, which prohibits local and county officials from profiting off municipal or county contracts. While the bill was voted ITL 15-8, the majority report note, “While the intent of the bill of prohibiting personal profits by municipal employees or elected officials not available to the general public due to their employment or elected status is laudable, the language of the bill is vague and there may be unintended consequences.”
Senate Session, NH Senate Chambers, State House, Thursday, Feb. 13, 10 am.

There is a compressed schedule of hearings and Session this week due to last week’s snow postponement of the State of the State speech and moving of Tuesday hearings due to the NH Primary. On Thursday, the Senate will join the House for the Governor’s address at 2 p.m.

ELECTION LAW AND MUNICIPAL AFFAIRS

**SB 422**, relative to changes of registration of voters at primary elections. This bill as amended will permit all voters to change their party affiliation at primary elections and it will make certain changes to the party change card. Currently, this card is not on the list of documents that must be kept confidential. The adopted amendment corrects that by adding the voters registration change card as protected information. Ought to Pass with Amendment, Vote 5-0.

**SB 485**, relative to the disqualification of certain persons from performing duties as an election official. Ought to Pass, Vote 5-0. Senator Gray for the committee. This bill clarifies the circumstances under which certain persons are disqualified from performing the duties of an election official on election day. Two statutes, RSA 658:24 and RSA 659:58, will be amended to correct an inconsistency regarding the duties an election official who is listed on the ballot for an office other than an election official may perform.

**SB 488**, relative to public inspection of absentee ballot lists. Inexpedient to Legislate. This bill expands the window during which a town clerk can send an absentee ballot up to the day before an election, and makes other provisions for transparency.

**SB 489**, relative to the absentee ballot application process. A bill outlining new procedures for verifying absentee voter’s qualifications to vote was voted Inexpedient to Legislate, by a vote of  3-2.

This Week's Hearings

**WEDNESDAY, FEBRUARY 12**

SENATE ELECTION LAW AND MUNICIPAL AFFAIRS, Room 102, LOB
10:30 **SB 586-FN**, relative to certain expenditures by candidates and candidate committees. The bill amends current law to insure that candidates keep receipts when reimbursing the candidate or family members from campaign funds. The NH Union Leader broke a story last year concerning the bookkeeping practices of the Governor’s inaugural committee involving his family members.

EXECUTIVE SESSION MAY FOLLOW

**THURSDAY, FEBRUARY 13**

HOUSE ELECTION LAW, Room 308, LOB
9:00 a.m. **HB 1665** -FN-A, Subcommittee work session on an independent redistricting commission. HB 1665 is a similar bill to HB 706, but concerns were raised in committee that the bill does not explicitly give the legislature the right to amend the final proposal. **ODA Priority Bill**

10:00 a.m. Subcommittee work session on **HB 1395**. The commission would consider allowing 16 year olds to vote, ways to expand voting access, and other ways to expand civic engagement. **HB 1534**, establishing a commission to study the creation of online voter registration for the 2022 state elections, specifically the technologies to be used, how it would be implemented, the impact on town clerks and considerations.
WEDNESDAY, FEBRUARY 26
STATE-FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 206, LOB 10:30 a.m.
HCR 9, rescinding all requests by the New Hampshire legislature for a federal constitutional
convention; Concerns over how an Article 5 U.S. Constitutional convention might have unintended
consequences have caused this House Constitutional Resolution to be introduced again this term.

Write a Letter-to-the-Editor Supporting the HB 1665 Independent Redistricting Commission
The full NH House will be voting on HB 1665, in the next few weeks. This bill is mostly a clone of HB
706, which passed both houses last year and was vetoed by Governor Sununu. If you need some help
with some of the details, here's an HB 1665 resource on Open Democracy Action which can help
provide some additional information on the bill.

Another HB 1665 letter to share, written by Judith Ackerson of Franklin. Well done, Judith!

Are You a Policy Wonk?
If you want to make change in money-in-politics legislation in New Hampshire, get involved! The
Open Democracy Action Legislative Committee would welcome you to be part of the change. As a
volunteer, you'll attend hearings and take notes, testify at the important hearings, research
legislation, help develop new legislation, and work with legislators. Send Open Democracy Action's
Bob Perry an email, perry4nh@gmail.com, if you're that person.

Legislation We're Watching this Term
To see updates and descriptions of the other important Democracy legislation for this term, click on the links below.

- Public Funding
- Redistricting & Ending Gerrymandering
- Campaign Reform
- Money-in-Politics

Questions? Want to Help?
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