

HB 289-FN - AS INTRODUCED

2023 SESSION

23-0537

05/04

HOUSE BILL **289-FN**

AN ACT relative to consultation with legal counsel under the right to know law.

SPONSORS: Rep. Corcoran, Hills. 44

COMMITTEE: Judiciary

ANALYSIS

This bill prohibits a public official from retaining legal counsel for the purpose of evading compliance with the right to know law and makes violation of the requirement a misdemeanor.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to consultation with legal counsel under the right to know law.

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

1 1 Access to Government Records and Meetings; Nonpublic Sessions; Consultation with Counsel;
2 Limitation. Amend RSA 91-A:3, II(l) to read as follows:

3 (l) Consideration of legal advice provided by legal counsel, either in writing or orally, to
4 one or more members of the public body, even where legal counsel is not present; ***provided that***
5 ***under no circumstance shall a member of the public body retain or consult with counsel for***
6 ***the purpose of evading compliance with this chapter. Any public official who solicits such***
7 ***advice, or votes to pay an attorney or law firm for such advice, shall be guilty of a class B***
8 ***misdemeanor.***

9 2 Effective Date. This act shall take effect January 1, 2024.

**HB 289-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to consultation with legal counsel under the right to know law.

FISCAL IMPACT: ☒ **State** ☒ **County** ☐ **Local** ☐ **None**

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill prohibits a public official from retaining legal counsel for the purpose of evading compliance with the right to know law and makes violation of the requirement a misdemeanor. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the New Hampshire judicial and correctional system entities impacted have provided the potential costs associated with these penalties below.

Judicial Branch	FY 2023	FY 2024 through 12/31/23	FY 2024 (Starting 1/1/24 with repeal of Felonies First)
Violation and Misdemeanor Level Offense	\$119	\$122	\$122
Appeals	Varies	Varies	Varies
NH Association of Counties		FY 2023	FY 2024
County Prosecution Costs		Indeterminable	Indeterminable

Many offenses are prosecuted by local and county prosecutors. When the Department of Justice has investigative and prosecutorial responsibility or is involved in an appeal, the Department may be able to absorb the cost within its existing budget. However, if the Department needs to

prosecute significantly more cases or handle more appeals, then costs will increase by an indeterminable amount.

AGENCIES CONTACTED:

Judicial Branch, Department of Justice and New Hampshire Association of Counties