

SB 2 Moderators Workshop Legislative Update

Natch Greyes, Esq., *Government Affairs Counsel*

Legislative Changes 2021



Legislative Changes 1 of 4



- ▶ **Electronic Poll Books.** [Chapter 101](#) (SB 46) authorizes municipalities to use electronic poll book devices for voter registration and check-in for elections, subject to certain requirements. This makes permanent what had been a trial program that otherwise would have expired on January 1, 2023. Statute amended: RSA 652:27. E.D. August 30, 2021.
- ▶ **Voter Who Registers Without Photo ID Must Be Photographed.** [Chapter 111](#) (HB 523) requires that if a person registers to vote by using a qualified voter affidavit or a sworn statement on the election day registration form in lieu of providing an approved voter identification, the supervisors of the checklist, city or town clerk, or election day official must take a photograph of the person. The photograph must be retained in the same manner as a qualified voter affidavit. Statutes amended: RSA 654:12; 659:13. E.D. September 7, 2021.

Legislative Changes 2 of 4



- ▶ **Modified Residence Criteria for Polling Place Workers.** [Chapter 125](#) (HB 476) allows assistant moderators in towns with more than one polling place to be residents of the town, rather than the “voting district covered by the additional polling place.” It also requires that assistant moderators and assistant clerks in cities live in the ward which they serve. **Statutes amended: RSA 658:14; 658:18. E.D. September 12, . See also section XI.**
- ▶ **New Voter Checklist Verification Procedures.** [Chapter 137](#) (HB 285) makes several changes to the voter checklist statutes to ensure that checklists are updated due to deaths and address changes. It also requires a municipality that receives an inventory of property transfer under RSA 74:18 to forward the buyer’s and seller’s names and addresses to the supervisors of the checklist. **Statutes amended: RSA 5-C:4; 74:18; 261:55; 654:37, :45. E.D. September 21, 2021.**

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- ▶ ***Tax Cap Exclusions Require Supermajority Vote.*** [Chapter 88](#) (SB 52) provides that certain items that are excluded from a tax cap provision in a city or town charter must be approved by a supermajority as determined in the charter. **Statutes amended: RSA 49-B:13, II-a; 49-C:33, I(d); 49-D:3, I(e).** E.D. August 20, 2021.
- ▶ ***Municipality Must Provide Electronic List of Absentee Ballot Requests.*** [Chapter 187](#) (HB 326) modifies the requirement that a town or city clerk, upon request by a candidate whose name appears on an election ballot, provide a list of absentee voter applicants. Under the new law, the list must, if so requested, be supplied electronically from the information in the statewide centralized voter registration database. **Statute amended: RSA 657:15, II.** E.D. October 9, 2021.

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- ▶ *Procedure for Adding Names to Voter Checklist.* [Chapter 175](#) (SB 31) provides that when an applicant to register to vote lists a previous place of registration on the voter registration form, the supervisors of the checklist will enter that information into the statewide centralized voter registration database. It repeals the requirement to forward a copy of the registration form to the supervisors of the checklist in the municipality of the applicant's last voting address if that address was in another New England state. The secretary of state will provide information on individuals who report being previously registered in another state to the chief elections officer of that state. When supervisors of the checklist receive notice through the centralized voter registration database that a voter has registered in another state, they will remove that voter from the checklist unless they have evidence that the notice is inaccurate. The new law also modifies the absentee ballot affidavit. **Statutes amended: RSA 654:13; 657:7. E.D. August 30, 2021, for absentee ballot affidavit change; September 28, 2021, for voter checklist procedure.**

New Bills 2022

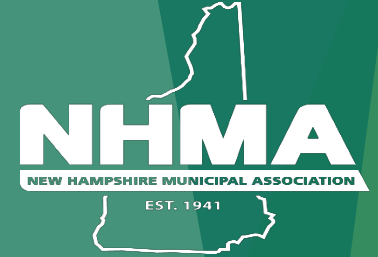


A Couple of Worrying Bills



- ▶ **HB 1359** prohibits any election official, other than the clerk, from performing any election duties on election day when the official appears on the ballot for any position, and requires such officials to remain outside the polling place except when voting. In practice, if enacted, this bill means that municipalities will find that many of their duly elected election officials will be sitting out many of their elections. In the case of the moderator, for example, the office's two-year term means that the elected moderator will only be eligible to preside over town elections half of the time.
- ▶ **HB 1485** creates a procedure for the direct recall of any local elected official serving a 3-year term. Although the bill limits when recall petitions may be filed and the purposes for which such petitions may be filed, some limitations are vague and will require litigation to settle in each individual case, and the additional expense of holding a recall election will strain already tight municipal budgets.

And a Couple More...



- ▶ **HB 1567** allows any registered voter to bring suit in superior court against any municipal election official for failure to perform his or her election duties. If the voter prevails, the official will be removed from office and the municipality must pay the voter's attorney's fees and court costs. Nothing in the bill serves as a check against vexatious litigation, including suits by a voter alleging incorrect counting of ballots if his/her preferred candidate does not win.
- ▶ **HB 1064**, among other things, would prohibit the use of electronic ballot-counting devices. In other words, all ballots would have to be hand-counted! In large and even medium-size municipalities, this would leave sleep-deprived election officials counting votes all night and into the next day, after having arrived at the polls at 6:00 a.m. or earlier.

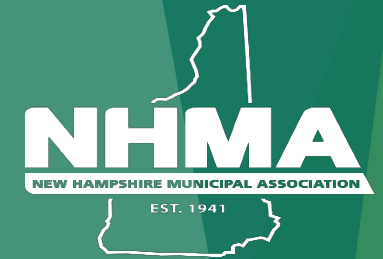
A Bill That May Be of Interest



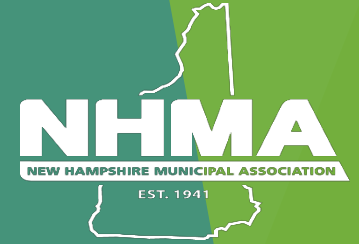
- ▶ [SB 366](#) requires the Secretary of State to audit 1-3% AccuVote Devices (but not less than 4) used during the 2022 general election. The SOS would be required to select at least two people to be on the audit team, one of whom will be trained by the SOS and the other, if not trained by the SOS, may be an elected election official. (There is no requirement that the election official accept the appointment, so it *should* be a volunteer position.)



And a (Potential) Request for Volunteers



- ▶ [HB 1008](#) proposes establishing a commission to study the “the structure and election calendar of New Hampshire municipal government.” The sponsor is amendable to an amendment that would allow NHMA to appoint a municipal representative to the commission, and we thought that someone very familiar with the town meeting process would be the most appropriate choice.
- ▶ If you are interested, please let us know. Note, of course, that the bill may not pass, but if it does, we like to be prepared.



Thank you!
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Any Questions?