

2024 - SB2 Moderators Workshop

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What is SB2?

- Senate Bill 2 (1996) allowed towns/districts to adopt official ballot referendum (a.k.a. "SB 2") via RSA 40:12 - :15
- Two sessions:
 - Deliberative Session: The first session, where the voters discuss, debate and amend warrant articles (652:16-f)
 - Official Ballot Voting Day: The day when voters elect officers and other matters placed on the official ballot (652:16-g)

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RSA Chapter 40: The statute to know!

RSA 40:13: The “SB 2 statute”

- ✓ Schedule (March, April, or May)
- ✓ Deadlines (e.g. budget hearings) → NHMA Important Dates Calendars
- ✓ Warrant Articles/Amendments
- ✓ Restricting Reconsideration
- ✓ Second session

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Essential Official Ballot Referendum Requirements

- 40:4- moderator presides
- 40:4-a secret ballots
- 40:4-b questioning vote
- 40:4-f updated checklist for meeting
- 40:6 penalty for default of presiding officer
- 40:10 restricting reconsideration

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Other Important Statutes

- RSA Chapter 39: Holding/Warning Town Meeting
- RSA Chapter 32: Municipal Budget Act
- RSA Chapter 35: Capital Reserve Funds
- RSA Chapter 31: Powers and Duties of Towns

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Prepare Yourself to Serve

- Meet with governing body, school board, budget committee, election officials, town/district counsel
- Go to the budget hearings/keep your “ear to the ground”
- Contact authors of petitioned articles - discuss who will present petitioned articles
- Develop plan for who at the front table will move and discuss all other articles
- Who will respond to legal and other questions about substance of the articles?

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Meeting at School Property Special Issues:

- Safe School Zone Gun Act of 1990
- Registered Sex Offenders
- 126-K:7 Use of Tobacco Products

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Moderator's Authority and Duties

- Preside over the meeting (Duties; 40:4)
 - ✓Regulate the meeting's business
 - ✓Rules of Procedure are the foundation
 - ✓Decide questions of order
 - ✓Declare results
- Enable free speech
 - ✓Prevent disorder
- No difference whether a Town or School moderator

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Passing the Gavel

- If absent:
 - Town Moderator Pro Tem is appointed by Supervisors of Checklist (40:3)
 - School Moderator Pro Tem is appointed by the School District Clerk (671:33)
- Moderator may appoint an assistant to cover temporary situations (40:3-a)
- Absent due to sudden illness, Covid? Have a Moderator Pro Tem appointed
 - An Asst. Moderator may be appointed

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Is the meeting space ready?

- ✓ Room arrangement
- ✓ Technology
- ✓ Moderator's "Toolkit"
- ✓ Security?



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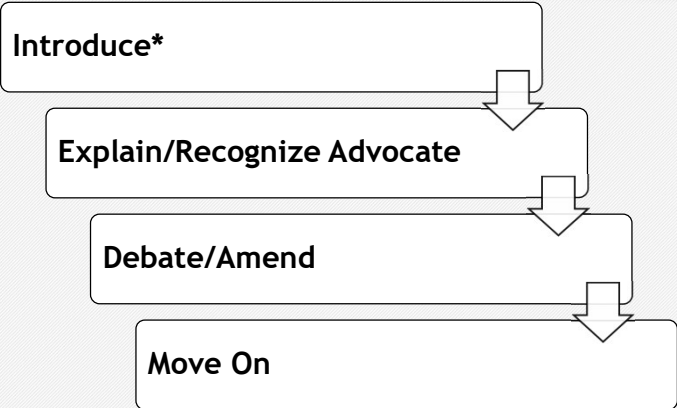
Your Team



- “Pro Tem Moderator” 658:19
- “Assistant moderator,” RSA 40:3-a/RSA 197:19-a
- The “Supporting Cast”: Town clerk or district clerk, supervisors of the checklist, volunteer counters

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Explanation, discussion, and debate of each warrant article



**Best to require articles be moved in for discussion as presented on warrant, DRA will disallow an appropriation article if there is no evidence of an amendment*

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Warrant Article Amendments

- Warrant articles may be amended at the first session, subject to the following limitations:
 - (a) Warrant articles whose wording is prescribed by law shall not be amended.
 - (b) Warrant articles that are amended shall be placed on the official ballot for a final vote on the main motion, as amended.
 - (c) No warrant article shall be amended to eliminate the subject matter of the article. An amendment that changes the dollar amount of an appropriation in a warrant article shall not be deemed to violate this subparagraph.
- 40:13, XI (b) The default budget may not be amended by the first session.







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“Warrant articles may be amended at the first session **subject to the following limitations . . .**”

- “To see if the town will raise and appropriate ~~\$20,000~~ \$0 to buy a new snowplow.”
- “I move to delete the police department line item from the budget.”
- “~~To see if the town will raise and appropriate \$20,000 \$0 to buy a new snowplow.~~”
- “To see if the town will not establish an official budget committee pursuant to RSA 32:14.”




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Wording of Articles Prescribed by Law

-  Funds Made Available During the Year 31:95-b, I (a)
-  Special Revenue Funds, 31:95-d, I, (c)
-  Adoption of Town Manager form of government, RSA 37:15
-  Authorizing Tax Anticipation Borrowing, RSA 33:7, V(a)
-  Rescinding action that enlarged Select Board, RSA 41:8-d
-  Rescission of Official Ballot form of government, RSA 40:14, VII

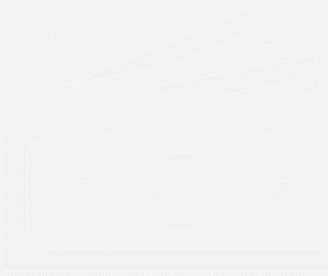
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Problem Amendments to Avoid

-  Change of Purpose not allowed
-  Agents of CRF not warned before meeting
-  Made “Non-Lapsing” From Floor

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Budgetary Issues



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Budget Act & 10% Limitation

- The total amount appropriated at any annual meeting shall not exceed by more than 10 percent the total amount recommended by the budget committee.
- 10% calculated after subtracting fixed charges:
 - ✓ Bonds, and all interest and principal payments thereon.
 - ✓ Notes, except tax anticipation notes, and all interest and principal payments thereon.
 - ✓ Mandatory assessments imposed on towns by the county, state or federal governments.
- Exempt from 10% Limitation:
 - ✓ Bond request not recommended in entirety, governing body may vote to override
 - ✓ Collective bargaining cost items
 - ✓ Mandatory NHDES Sewer & Water project costs.



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Default Budget At Deliberative Session

- Meeting can receive explanation, discussion & debate on default budget, RSA 40:13, IV
- Default budget cannot be amended by the meeting, RSA 40:13, XI (b)
- Default Budget may be adjusted by the governing body acting on relevant new information at any time before the ballots are printed, provided the governing body completes an amended default budget form.

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Capital Reserve Funds RSA Chapter 35

- Creation by warrant article only
- Discontinuance by majority vote
- Changing purpose requires 2/3 vote
- Agents to expend? Only in warranted, posted article
- Transferring funds - No



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Special Revenue Funds

- RSA 31:95-c, for revenues from user fees, not capital reserve, not a revolving fund.
- No agents allowed.
- Always requires an appropriation to spend money from this fund.
- Must be part of proposed budget/warrant.
- Can't be transferred to other restricted funds.
- Change of source of fund or fractional portion or purpose only by 2/3 vote. RSA 31:95-c (V)



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Collective Bargaining



RSA 32:19—budget committee recommendations
 RSA 32:19-a—presentation of cost items at annual meeting
 RSA 273-A:1, IV- “cost items” cannot be amended
 RSA 31:5, III—special meeting to reconsider

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Line-Item Budget Amendments

- Voters can move to amend a line item on the DRA budget form to zero.
- Voters cannot amend a line item downward to limit spending for specific purposes as any such amendment only reduces the bottom line of the budget.

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Voting

- Voice
- Hands (voting cards)
- Division (standing vote)
- Secret Ballot
- Move the question, point of order

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The Secret Ballot

Secret Ballot Voting, RSA
40:4-a, I (a):

- ✓ 5 voters who are present
- ✓ Written
- ✓ Presented prior to vote
- ✓ Recount of secret ballot vote RSA 40:4-a, I(b)

Questioning a Vote, RSA
40:4-b:

- ✓ 7 voters
- ✓ Orally or in writing
- ✓ Before other business

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Restricting Reconsideration RSA 40:10

- A vote to restrict reconsideration prohibits any further action on the restricted article until the second session.
- *For practical purposes there is no second deliberative session*



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How to Postpone the Deliberative Session

- The moderator may decide up to 2 hours but not more than 48 hours prior to the scheduled session due to weather event weather event warning
 - Moderator must consult with certain town officials before deciding
 - Notice to residents must be provided
- Moderator may postpone at any time prior to the session due to disaster or emergency rendering meeting place unsafe.

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How to Postpone the Official Ballot Voting Day

- Decision to postpone based on weather event warning applicable to a town on the date of the election must be made on the day immediately prior to the scheduled official ballot voting day at any time before 6:00 p.m.
- Document the decision and notify the Secretary of State within 2 hours
 - Recommend documenting the decision in an email to the SOS and later reprint the email in the town/district report
- Election must be rescheduled to the Tuesday 2 weeks following the original date

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NH Moderators List Serv

- This List Serv group was established to provide a simple way for New Hampshire moderators to communicate with each other.
- Each member will be able to send email to this list, and Google Groups will distribute the email to all of the group subscribers.
- The purpose of the group is to allow moderators to discuss issues, ask questions, and share information about any aspect of the moderator position.
- Messages should be relevant to that topic only, not include obscenity or advertisements, and be free of personal attacks.
- To be added to the NH Moderators List Serv, send an email to: sbuckley@nhmunicipal.org