

New Hampshire Local Government Center Knowing The Territory

Official Ballot Referendum Form of Town Meeting

A. Adoption

In 1995 towns, village districts and school districts were given authority to adopt the official ballot referendum form of government, commonly known as SB 2. This form of government is codified in the statutes as RSA 40:12 through 16. It requires all final town meeting votes to be taken by official ballot. This form of government must be adopted by a three-fifths majority of those voting on the question in order to go into effect. The question must be put on the official ballot either by the selectmen or by petition. The wording of the questions is prescribed by statute. Election laws dealing with absentee voting, polling places and polling hours apply. The selectmen must conduct a public hearing on the question at least 15 days, but not more than 30 days, before the vote. See RSA 40:14 for more details on the method of adoption or rescission.

B. Two Sessions

Under the official ballot referendum form of government, the annual town meeting consists of two sessions. The first session, or deliberative session, runs exactly like the traditional open town meeting with voters able to discuss and amend any warrant article. Other than votes to amend any warrant articles, no final votes are taken on warrant articles at the first session. The second session, consisting of the election of officers and final action on all articles in their amended form, takes place several weeks later and is done by day-long official ballot voting, including the absentee voting process.

C. Operating Budget

If the operating budget is rejected by voters during the second session ballot voting, the prior year's operating budget- known as the default budget- takes effect, unless the selectmen decide to call a special meeting to offer a revised operating budget to the voters. As defined by RSA 40:13, IX, the operating budget does not include special warrant articles and other appropriations voted separately.

D. Special Meetings

All special meetings also require two sessions, one for discussion and amendment, and one for official balloting. The same requirements for court permission for appropriating money at special meetings that apply to traditional town meetings apply as well to official ballot referendum town meetings. However, only one special meeting is permitted per year to raise and appropriate

money for the same question or issue in any one budget year. A special meeting to vote on a revised operating budget is not counted toward the number of special meetings that can be held in a calendar or fiscal year and does not require permission of the superior court under RSA 31:5.

E. Schedule

Under RSA 40:14, X, official ballot referendum towns have the option of holding town meeting in March, April or May, and the voters must choose one of those options when voting to adopt the official ballot referendum form of government.

RSA 40:13 establishes the precise dates for posting notice of and holding budget hearings, deadlines for submission of petitioned warrant articles, the budget submission date for cost items involved in collective bargaining agreements, and the date for posting the warrant. These dates are inflexible and some are different from the deadlines for these actions under the traditional town meeting process. For example, under the March option, RSA 40:13, II requires petitioned warrant articles to be submitted by the second Tuesday in January and RSA 40:13, III requires the first session to be held “between the first and second Saturdays following the last Monday in January, inclusive of those Saturdays.”

F. Voting on Bond Articles

In 1999, the legislature amended RSA 33:8, which requires a two-thirds majority vote for passage of bond articles, to reduce the supermajority requirement in official ballot referendum towns and districts to three-fifths majority. Legal challenges to this legislation based on equal protection claims failed in state and federal court.

G. Reconsideration and Restricting Reconsideration

As described above, RSA 40:10 permits voters to restrict reconsideration of warrant article votes, thus requiring to be held at least seven days later at the recessed session of the meeting. In official ballot referendum towns and districts, RSA 40:13, IV prohibits actual reconsideration of votes taken at the first session until the second session. And RSA 40:13, XV prohibits reconsideration of second session votes.

H. Bad Weather Postponement

The moderator cannot delay the first session of an official ballot referendum meeting due to bad weather by more than 72 hours, presumably because it might jeopardize preparation of the official ballots in time for the second session. See RSA 40:4, II for details.

I. Charter Method for Enacting Official Ballot Referendum Voting

Under RSA 49-B:3, VI, a town can form a charter commission that is limited to considering only the issue of official ballot referendum voting. This charter process can also be used by SB 2 towns and districts as a way of “customizing” the official ballot referendum procedures they

adopted under RSA 40:13. The law says that the charter commission question placed on the ballot should read: “Shall a charter commission be established for the sole purpose of establishing official ballot voting under the current form of government?” That precise wording is not required, however. Under RSA 49-B:3, V, the question is placed on the ballot at a regular municipal election, at a state biennial election if one is coming up or at a special election. See the statute for details.

RSA 49-B:3, I allows the governing body to determine that the question should be placed on the ballot. It also provides for a citizen petition to get the question on the ballot, signed by 20 percent of the number of votes cast in the last municipal election. An alternative citizen petition process is also permitted, involving a complex process detailed in RSA 49-B:3, III and IV.