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TECHNICAL ASSISTANCE For SB2 (Official Ballot Referenda)

What is the official ballot referenda?

It is a form of town meeting that has two sessions. The first session (deliberative session) is for explanation, discussion, debate and amendments to the proposed operating budget and warrant articles. The second session (voting session) allows voters to cast their votes for local elections, zoning articles and all warrant articles.

Why is it referred to as SB2?

The original bill proposing the official ballot referenda was Senate Bill 2 in 1995. Legislation in 2000 made "SB2" the official name for this official ballot referenda form of government.

How does a town adopt the official ballot referenda?

The local governing body must hold a public hearing at least 15 days prior to the question being voted on, (RSA 40:14, IV). The question as worded in RSA 40:14, V, "Shall we adopt the provisions of RSA 40:13 (known as SB2) to allow official ballot voting on all issues before the (insert local political subdivision) on the second Tuesday of (insert Month), is placed on the warrant for the annual meeting. Passage requires a 3/5 majority vote of those voting. At this time the month for holding the second session (voting) can be designated as March, April, or May.

Another form of official ballot voting may be adopted under the charter process under RSA 49-D.

When does it take effect?

It will take effect at the next annual or special meeting. If you are currently SB2 and vote to change the date of the second session to April or May, it will take effect at the next annual meeting [RSA 40:14, XI, (e)].

How will the meeting change? Can opinions still be voiced?

There are a few significant changes that occur. First is the creation of a second session specifically for voting. The deliberative session (first session) is similar to the traditional town meeting but is held earlier. During this meeting, all articles can be explained, discussed, debated and amended. The articles as presented or amended will be placed on the official ballot and voted on at the second session. Most SB2 municipalities hold their first session in late January to early February and voting in March (second session).

See our timelines for the specific dates this year. Another change is the procedure for adopting the budget. The article proposes an operating budget and a default budget (should the proposed operating budget fail). Special and individual warrant articles are separate from the operating budget as prescribed by RSA 40:13, IX. A hearing on the entire budget and default budget must be held prior to posting the warrant and budget in accordance with RSA 40:13, II-a through II-d.

What is a default budget? Is there a special default budget form? Can it be amended? A default budget is the budget that is adopted when the proposed operating budget fails if a special meeting is not called to reconsider the operating budget. The default budget is the same as last year with certain adjustments. The calculation must be disclosed on a special default operating budget form showing last year's operating budget with adjustments made per RSA 40:13, IX (b). This form is available on our website at www.revenue.nh.gov/munc_prop/municipalservices.htm. The default budget can be adjusted by the governing body (or budget committee under RSA 40:14-b), acting upon relevant new information. This can be done at any time before the ballots are printed, provided an amended default budget form is prepared.

What if the proposed operating budget fails?

If the operating budget fails, the default budget is adopted unless the governing body decides to hold one special meeting to address a revised operating budget. See RSA 40:13, XI.

Who calculates the default budget for SB2 municipalities?

The local governing body calculates the default budget. However, if a town wishes to have the budget committee calculate the default budget, the question can be put before the voters on the warrant for the annual meeting after a public hearing is held on the question. Passage requires a 3/5 majority ballot vote. Required wording per RSA 40:14-b is:

“Shall we adopt the provisions of RSA 40:14-b to delegate the determination of the default budget to the municipal budget committee which has been adopted under RSA 32:14?”

What about reconsideration of special or individual warrant articles?

RSA 40:13, XV does not allow reconsideration on votes cast at the second session.

What is the difference between a special and an individual warrant article?

Special warrant articles as defined in RSA 32:3, VI, are appropriations:

- 1) Submitted by petition; or,
- 2) Raised by bonds or notes; or,
- 3) To or from a separate fund created pursuant to law, such as capital reserve funds or trusts funds; or,
- 4) Designated on the warrant as a special article or as a non-lapsing or nontransferable article.
- 5) Appropriates an amount for a capital project under RSA 32:7-a

*A special warrant article must be accompanied **ON THE BALLOT** with a recommendation (for or against) by the governing body and budget committee (if there is one).*

Individual warrant articles are not necessarily the same as "special warrant articles". An example of an individual warrant article might be negotiated cost items for labor agreements or items of a one time nature addressed independent of the operating budget.

Why is it important to distinguish between a "special" or "individual" warrant article? *The required wording for the operating budget in RSA 40:13, XI specifically states that the operating budget does not include any other appropriations including those voted for in special warrant articles and other appropriations voted separately. The wording of these articles determines whether they can be considered part of the default budget next year.*

Can petitioned articles be changed at the first session? *Under current law, petitioned articles can be amended by the first session, however, no new subject matter may be introduced.*

What is the due date for petitioned warrant articles (RSA 39:3 and 197:6) and collective bargaining cost items (RSA 273-A: 1,III) for inclusion in the budget? *For a March meeting, RSA 40:13, II-a, (b) requires a submission date no later than the second Tuesday in January.*

If the collective bargaining warrant article fails, will the court allow a special meeting? *The governing body may insert a warrant article authorizing one special meeting to address negotiated cost items without petitioning the superior court. See our suggested warrant article publication for wording. If an article requesting a special meeting is not put on the warrant or if it is voted down, the governing body may petition the superior court to hold a special meeting.*

What forms need to be completed to set the tax rate? *A list of all documents and their due dates required to set the tax rate can be found on our website. SB2 requires additional documents to verify that all appropriations have been made consistent with procedural requirements of the statutes or are not prohibited by statute. These additional documents are:*

*Signed Minutes from the Deliberative Session;
Signed Official Ballot; and
The Count of the Ballot Votes verified with the town or district clerk's signature.
The verified count could be included on the official ballot.*

How to go back to the old town meeting format. *The Official Ballot Referenda may be rescinded in the same manner as adopted except the wording of the question shall be as prescribed in RSA 40:14, VII. It requires a 3/5 majority vote of those voting to be rescinded.*

Operating Budget Wording for "SB2"

The required wording of the operating budget per RSA 40:13, XI is as follows:

"Shall the (local political subdivision) raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling \$ _____? Should this article be defeated, the default budget shall be \$ _____, which is the same as last year, with certain adjustments required by previous action of the (local political subdivision) or by law or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only."

It excludes special warrant articles and other appropriations voted separately. To help voters understand the budget amount and wording presented in this article, we suggest you add a note similar to this:

NOTE: This operating budget warrant article does not include appropriations contained in ANY other warrant articles.

The goal is to make the ballot clear as to what is or is not included in the operating budget. DO NOT use a SWEEP (or all inclusive) article, which is essentially a double vote on some items and contrary to RSA 40:13, XI.

Our Suggested Warrant Article publication offers many examples of warrant article wording along with information that may be useful when considering how an article should be written. This publication, timelines, and numerous other technical publications can be found on our website.

If you have any questions concerning how to perform any of the above steps or to be sure your warrant articles are in proper form, please call the Municipal Bureau at 230-5090.