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NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Governance & Governing Body Authority

Academy for Good Governance

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Welcome to the 2026 Academy



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Authority of Political Subdivisions

- Towns, cities, school districts, village districts, counties – none have any inherent authority to act. They get ***all*** of their power from the State
  - Laws (RSAs), Court Opinions, Admin Rules
- Must find authority in one of these places!
- It is not enough to say "no law says we can't do this"

- No "home rule" – although we do have some "local control" over certain things and can change the "form" of government in certain ways.

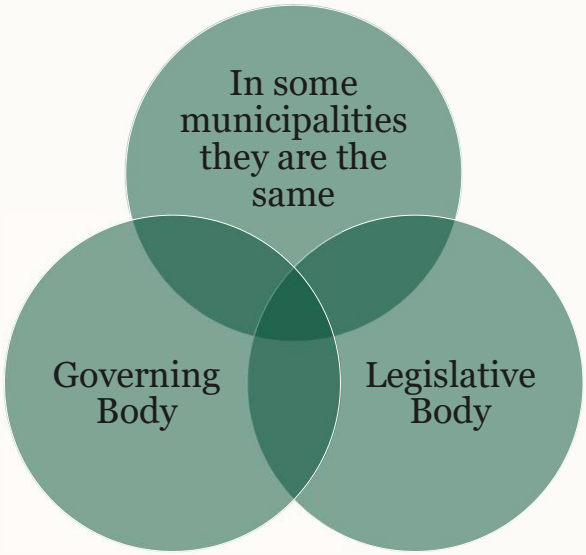
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Types of Political Subdivisions

- Cities
- Towns
- Village Districts
- School Districts
- Counties

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Separation of Powers



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Town Meeting = Legislative Body

Voters are "legislators"

Traditional Town Meeting

"SB2" – Official Ballot Referendum Town Meeting

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Legislative Body Authority

- Elect Town officials
- Adopt most ordinances (but not all)
- Adopt the budget for the year (operating budget, other separate appropriations)
- Approve other warrant articles

- When a statute says "town" or "town meeting" or "legislative body" has authority to do something, this all means the same thing. The legislative body (usually the voters) has to do it.

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Governing Body Basics

- Act ONLY as a board (through a quorum)
- No select board member has any authority alone
- Towns: select board (most common) or town council
- Cities: city council or board of aldermen
- Village Districts: board of commissioners

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Governing Body Relationship with Other Elected Officials, Generally

- No interference
- Cooperation
- Statutory Terms and Duties

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Select Board Basic Authority

- Executive, managerial, administrative body
- Manages employment for most of town
- Calls annual meeting and posts warrant, RSA 39
- Manages prudential affairs, RSA 41:8
- Financial responsibilities:
  - Prepare budget (unless official budget committee)
  - Oversees expenditures, RSA 41:9
  - Internal controls, RSA 41:9
- Approve tax warrants, grant/deny abatements

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Select Board Basic Authority

- Manages town property, RSA 41:11-a, 41:14-a
- Regulates town roads, RSA 41:11
- Are Election Officers, RSA 652:14
  - Provide for polling place, town meeting location
  - Are Board of Recount with Moderator & Clerk
- If authorized by town meeting, may accept gifts (usually held by Trustees of Trust Funds, RSA 31:19) and unanticipated revenue (RSA 31:95-b)
- Makes appointments and fills vacancies on some boards and committees

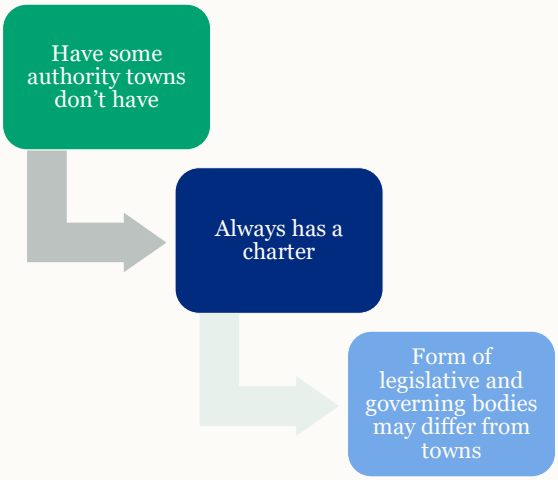
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Town Administrator v. Town Manager

- Town Administrator – not in statute; created by select board to perform tasks as assigned
- Town Manager – RSA Chapter 37, is a form of town government (some select board duties are formally given to town manager instead)
  - Legislative body votes to adopt this
  - Is administrative/supervisory head of all town departments
  - Responsible to governing body
  - Duties defined in statute

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Are cities different from towns?



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City Forms of Government

Elected body is both the legislative and governing body of the city

Mayor-aldermen ("strong mayor")

- Mayor and board together are elected body
- Mayor elected at large, full-time employee, CEO of city

Council-manager

- City council is elected body
- Mayor either elected at large or chosen from council
- Mayor does not serve full-time; council hires a full-time manager to serve as CEO of city

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Incompatibility

- A prohibition against one person holding two specific positions at the same time
  - RSA 669:7 (general lists of incompatible offices)
  - RSA 673:7 (land use boards)
  - RSA 35:15 (budget committee)
  - RSA 48:1 (disqualification for employment-cities)
  - Local ordinance (RSA 31:39-a)
  - Municipal charter (if there is one)

- Common law: even if no statute addresses it. 2 positions with a special relationship to each other, one subordinate to & interfering with the other, with inconsistent loyalties or responsibilities, *Cotton v. Phillips*, 56 N.H. 220 (1875).

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Conflict of Interest

- A matter in which a person should not participate because they have a direct and definite personal or financial interest in the outcome and can't act in the public interest
  - Arises from another position they hold, a relationship, a bias, some other matter they participated in, etc.
  - Nothing illegal or improper about **having** a conflict of interest, **so long as it is handled correctly**

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Legislative vs. Quasi-Judicial Decisions

Legislative

- Widely felt
- Policy decisions
- Must act in public's interest, but don't need to be "indifferent"

Quasi-Judicial

- Affect rights of specific petitioner
- Notify & hear parties
- Weigh evidence
- Must be indifferent

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  - Nothing illegal or improper about **having** a conflict of interest, **so long as it is handled correctly**
- Person with a disqualifying conflict of interest should RECUSE themselves, not abstain. They are different.

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QUESTIONS?

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