

*2021 - SB2*  
*Moderators Workshop*  
Issues for Experienced  
Moderators



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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)

# Essential Official Ballot Referendum Requirements



- ▶ Deliberative session governed by the provisions of RSA 40:4, 40:4-a, 40:4-b, 40:4-f, and 40:6-40:10.

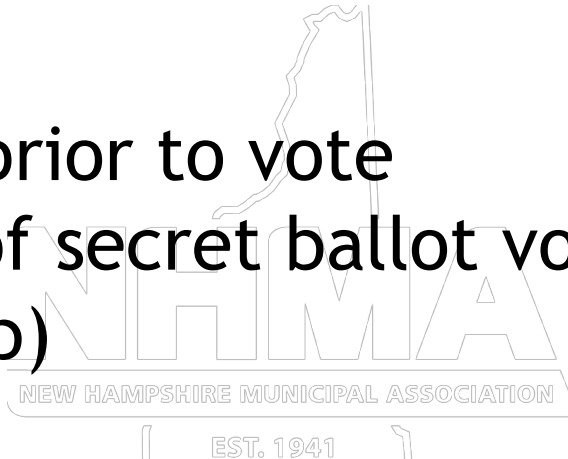


# The Secret Ballot



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

- 5 voters
- Written
- Present, prior to vote
- Recount of secret ballot vote RSA 40:4-a, I(b)



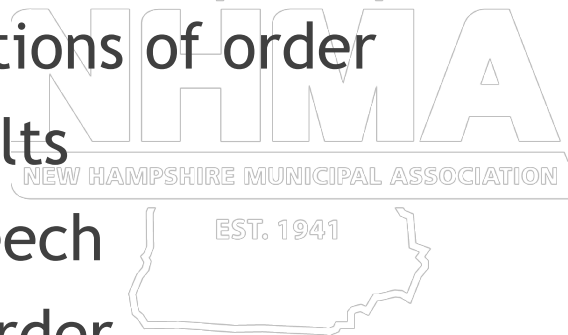
## Questioning a Vote, RSA 40:4-b

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

# 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



# 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 Covid? Have a Moderator Pro Tem appointed
  - ▶ An Asst. Moderator may be appointed

# What's your plan?

- ▶ Rules of procedure
- ▶ Review warrant
- ▶ Local hot topics/warrant articles
- ▶ Develop plan with health officer & police dept on how to address unmasked voters
- ▶ Preparatory workshop/meeting with volunteers & election officials
- ▶ Expect the unexpected!



# Covid-19 & In-Person Meetings



- ▶ Emergency Order #74 - voters must wear a face covering (unless exempt) if they cannot consistently maintain a physical distance of at least six feet.
- ▶ The law is uncertain on whether the moderator could mandate all attendees to wear masks.
- ▶ Recommendation:
  - ▶ Ask attendees to wear masks
  - ▶ Set aside a separate area for non-masked attendees
  - ▶ The separate area could be a separate room with video and audio connection



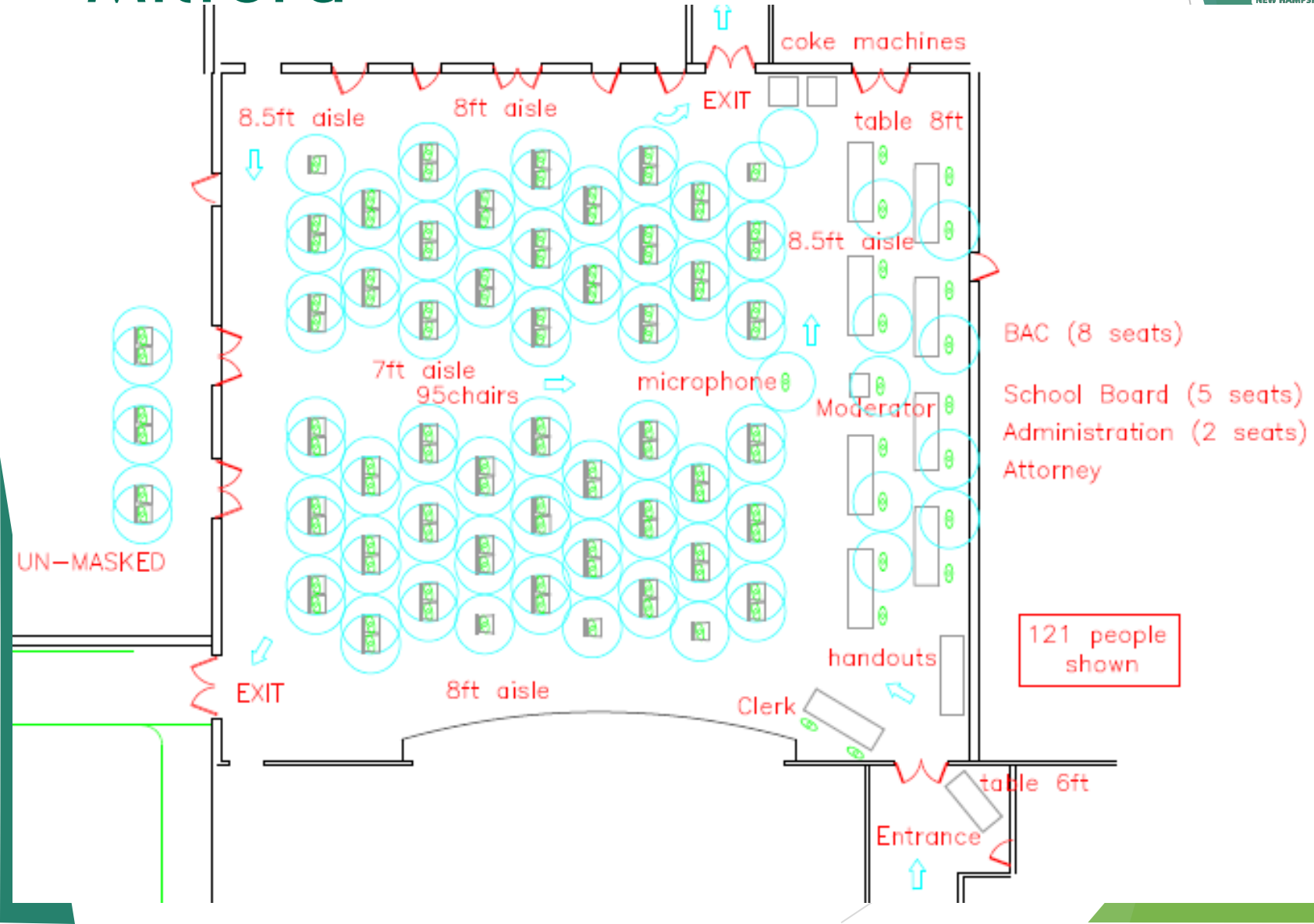
# Covid-19 Meeting Place Layout Issues



- ▶ Voter flow through the meeting place (i.e., going to microphone)
- ▶ Locations for information displays and handouts
- ▶ Entrances and exits, both masked and unmasked voters
- ▶ Protective barriers for election officials
- ▶ Personal protective equipment (PPE), spares for voters



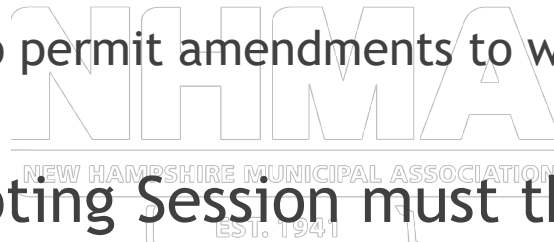
# Meeting place layout in Milford



# HB 1129 - Opportunity and Implications



- ▶ Governing Body may convene deliberative session through a virtual/online process
  - ▶ First meeting to review and discuss procedures for finalizing content of warrant and drive-up voting
  - ▶ Second meeting to permit amendments to warrant by Governing Body.
- ▶ Official Ballot Voting Session must then include drive-up voting but can also involve walk-in voting at polling place.



# SB2 Postponement



- ▶ RSA 40:4 defines how to postpone the deliberative session or the official ballot voting session
- ▶ The moderator may postpone when:
  - National Weather Service has issued a weather event warning and the moderator believes the event may cause the roads to be hazardous or unsafe
  - If an accident, fire, natural disaster, or other emergency, such as the public health hazards of Covid-19, renders use of the meeting location unsafe.



# Postponement Issues Arising from Covid



- ▶ Every session postponement is for 72 hours
  - ▶ Continued session postponements may cause the original election day to also be postponed
- ▶ Official Ballot Voting Day is a 2- week postponement
- ▶ Stay tuned for possible legislative action!

# 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
  - ▶ 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.

# Covid-19 Deliberative Session Postponement Issues



- ▶ The deliberative session can only be postponed for no more than 72 hours.
  - ▶ Undertake repetitive 72-hour postponements.
- ▶ *The official ballot voting day shall be warned for a date not fewer than 28 days nor more than 60 days following the first session*
- ▶ If you end up postponing your deliberative session into March or later, you will need to postpone your official ballot voting day as well.

# How to Postpone the Official Ballot Voting Day



- ▶ Must be made on the day immediately prior 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



# Electioneering at Polling Place



- ▶ 262:32; 652:16-h; 659:43; 659:44 clarify electioneering
- ▶ Establish one or more no-electioneering corridors at each entrance to the polling place:
  - ▶ Designate a preferred area for electioneering
  - ▶ Prohibits affixing electioneering signs to the building or grounds and leaving electioneering signs unattended.
- ▶ Authorized official can remove a vehicle that has been parked or left unattended on election day for longer than three hours in an area designated for voters.

# Recent Laws That Apply



## DEFAULT BUDGET DEBATE

- ▶ RSA 40:13, IV permits voters to discuss and debate the default budget.
- ▶ RSA 40:13, XI(b) still prohibits the voters from amending the default budget at the deliberative session.

## CONTENT OF TOWN MEETING MINUTES

- ▶ Right-to-Know Law - RSA 91-A:2, II requires that minutes the names of those who make or second each motion deliberative session.

## REDUCED VOTE MARGIN TO APPROVE BOND ISSUE.

- ▶ Chapter 38 (HB 1558) reduces from two-thirds to three-fifths the vote margin that is required for a town meeting to approve the issuance of a bond or note in a town that has not adopted the official ballot referendum (SB 2) form of town meeting.

# Warrant Article Amendments



- ▶ Warrant articles may be amended with limitations (40:13, IV)
  - ▶ Wording prescribed by law cannot be amended
  - ▶ No article may eliminate the subject matter of the article, except changing the dollar amount of an appropriation
- ▶ All articles shall be placed on the official ballot including warrant articles as amended at the deliberative session

# Problem Amendments to Avoid



Change of Purpose not allowed



Agents of CRF not warned  
before meeting



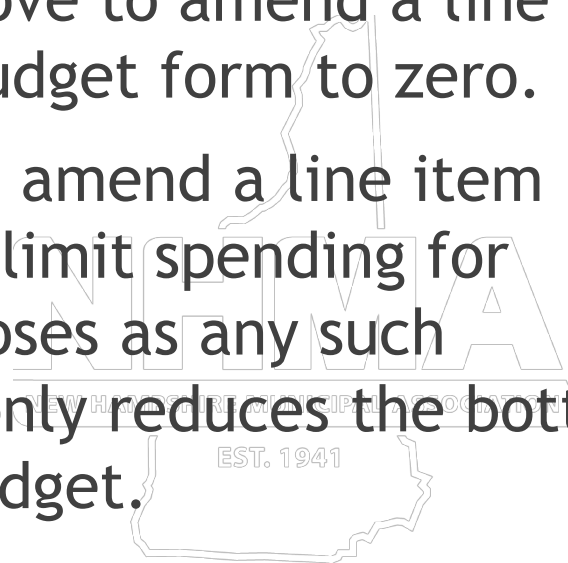
Made “Non-Lapsing” From Floor



# 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.





# 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*



# Key Takeaways



- ▶ Covid-19 safe and secure meeting methods
- ▶ Close collaboration with public health officer and emergency management director
- ▶ Monitor Covid-19 Resources Page on NHMA website for guidance and updates to legislation and Emergency Orders