Bill as Introduced

HB 1483 – AS INTRODUCED

2002 SESSION

02-2466
03/09

HOUSE BILL ***1483***

AN ACT relative to filling vacancies occurring on school boards.

SPONSORS: Rep. Gleneck, Hills 29; Rep. Albert, Straf 17; Rep. Drabinowicz, Hills 36; Rep. Artz, Hills 34

COMMITTEE: Education

ANALYSIS

This bill establishes new procedures for filling vacancies occurring on school boards.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 1483 - AS INTRODUCED

02-2466
03/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Two

AN ACT relative to filling vacancies occurring on school boards.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 School Meetings and Officers; Vacancies. Amend RSA 197:26 to read as follows:

197:26 Vacancies. The school board shall fill vacancies occurring [~~on the board, and~~] in [~~other~~] district offices, except that of moderator, until the next annual meeting of the district. [~~In case of vacancy of the entire membership of the board, or the remaining members are unable to agree upon an appointment, the selectmen, upon application of one or more voters in the district, shall fill the vacancies so existing until the next annual meeting of the district.~~] ***A vacancy occurring on the school board shall be filled by the person who received the next highest number of votes for the board position at the previous election and who is willing to accept the board position; if no person accepts the board position, the school board may fill the vacancy if there are less than 90 days remaining until the next election or may call a special election if there are 90 or more days remaining until the next election.***

2 School District Elections; Vacancies. Amend RSA 671:33 to read as follows:

671:33 Vacancies. Vacancies among members of cooperative or area school planning committees shall be filled by the moderator for the unexpired term. The school board shall fill vacancies occurring [~~on the school board and~~] in all other district offices for which no other method of filling a vacancy is provided. Appointees of the school board shall serve until the next district election when the voters of the district shall elect a replacement for the unexpired term. [~~In the case of a vacancy of the entire membership of the school board, or if the remaining members are unable, by majority vote, to agree upon an appointment, the selectmen of the town or towns involved shall appoint members by majority vote in convention.~~] Vacancies in the office of moderator shall be filled by vote at a school meeting or election, provided that, until a replacement is chosen, the school district clerk shall serve as moderator. Vacancies occurring on the budget committee of a cooperative school district shall be filled by appointment made within 5 days by the moderator if the vacancy is called to the moderator's attention or by the chairperson of the cooperative school board if the vacancy is called to the chairperson's attention or if the vacancy is that of a member appointed by the school board. ***A vacancy occurring on the school board shall be filled by the person who received the next highest number of votes for the board position at the previous election and who is willing to accept the board position; if no person accepts the board position, the school board may fill the vacancy if there are less than 90 days remaining until the next election or may call a special election if there are 90 or more days remaining until the next election.***

3 Effective Date. This act shall take effect 60 days after its passage.

Amendments

Rep. Gleneck, Hills. 29
March 11, 2002
2002-2917h
03/10

not used

Amendment to HB 1483

Amend the bill by replacing all after the enacting clause with the following:

1 School Meetings and Officers; Vacancies. Amend RSA 197:26 to read as follows:

197:26 Vacancies. The school board shall fill vacancies occurring [~~on the board, and~~] in [~~other~~] district offices, except that of moderator, until the next annual meeting of the district. [~~In case of vacancy of the entire membership of the board, or the remaining members are unable to agree upon an appointment, the selectmen, upon application of one or more voters in the district, shall fill the vacancies so existing until the next annual meeting of the district.~~] ***A vacancy occurring on the school board shall be filled by the person who received the next highest number of votes for the board position at the previous election and who is willing to accept the board position, provided that such person received at least 3 percent of the total votes cast for the position; if no person accepts the board position, the school board may fill the vacancy if there are less than 90 days remaining until the next election or may call a special election if there are 90 or more days remaining until the next election.***

2 School District Elections; Vacancies. Amend RSA 671:33 to read as follows:

671:33 Vacancies. Vacancies among members of cooperative or area school planning committees shall be filled by the moderator for the unexpired term. The school board shall fill vacancies occurring [~~on the school board and~~] in all other district offices for which no other method of filling a vacancy is provided. Appointees of the school board shall serve until the next district election when the voters of the district shall elect a replacement for the unexpired term. [~~In the case of a vacancy of the entire membership of the school board, or if the remaining members are unable, by majority vote, to agree upon an appointment, the selectmen of the town or towns involved shall appoint members by majority vote in convention.~~] Vacancies in the office of moderator shall be filled by vote at a school meeting or election, provided that, until a replacement is chosen, the school district clerk shall serve as moderator. Vacancies occurring on the budget committee of a cooperative school district shall be filled by appointment made within 5 days by the moderator if the vacancy is called to the moderator's attention or by the chairperson of the cooperative school board if the vacancy is called to the chairperson's attention or if the vacancy is that of a member appointed by the school board. ***A vacancy occurring on the school board shall be filled by the person who received the next highest number of votes for the board position at the previous election and who is willing to accept the board position, provided that such person received at least 3 percent of the total votes cast for the position; if no person accepts the board position, the school***

board may fill the vacancy if there are less than 90 days remaining until the next election or may call a special election if there are 90 or more days remaining until the next election.

3 Effective Date. This act shall take effect 60 days after its passage.

Rep. Gleneck, Hills. 29
March 11, 2002
2002-2917h
03/10

Not Adopted

Amendment to HB 1483

Amend the bill by replacing all after the enacting clause with the following:

1 School Meetings and Officers; Vacancies. Amend RSA 197:26 to read as follows:

197:26 Vacancies. The school board shall fill vacancies occurring [~~on the board, and~~] in [~~other~~] district offices, except that of moderator, until the next annual meeting of the district. [~~In case of vacancy of the entire membership of the board, or the remaining members are unable to agree upon an appointment, the selectmen, upon application of one or more voters in the district, shall fill the vacancies so existing until the next annual meeting of the district.~~] ***A vacancy occurring on the school board shall be filled by the person who received the next highest number of votes for the board position at the previous election and who is willing to accept the board position, provided that such person received at least 3 percent of the total votes cast for the position; if no person accepts the board position, the school board may fill the vacancy if there are less than 90 days remaining until the next election or may call a special election if there are 90 or more days remaining until the next election.***

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board may fill the vacancy if there are less than 90 days remaining until the next election or may call a special election if there are 90 or more days remaining until the next election.

3 Effective Date. This act shall take effect 60 days after its passage.

Rep. Henderson, Rock. 20
March 12, 2002
2002-2924h
03/10

not used

Amendment to HB 1483

Amend the title of the bill by replacing it with the following:

AN ACT relative to municipal budget committees.

Amend the bill by replacing all after the enacting clause with the following:

1 Municipal Budget Law; Application; Budget Committee; School Districts. Amend RSA 32:2 to read as follows:

32:2 Application. RSA 32:1-13, shall apply to all towns, school districts, cooperative school districts, village districts, and any other municipal entities, including those created pursuant to RSA 53-A or 53-B, which adopt their budgets at an annual meeting of their voters. RSA 32:14-23, concerning budget committees, shall apply only in those towns or districts adopting that subdivision pursuant to RSA 32:14, I, and shall apply automatically in [~~school districts or~~] village districts located wholly within towns adopting that subdivision.

2 Municipal Budget Law; Budget Committee; Adoption; School District or Village District. Amend RSA 32:14, I(d) to read as follows:

(d) By any school district or village district which adopts its budget at an annual meeting of its voters[~~, but which lies wholly within a municipality that lacks authority to adopt this subdivision~~].

3 Municipal Budget Law; Budget Committee Membership; School Board Members. Amend RSA 32:15, I(b) to read as follows:

(b) One member of the governing body of the municipality and, if the municipality is a town, one member of the school board of each school district ***which has adopted the provisions of this subdivision and which is*** wholly within the town and one member of each village district wholly within the town, all of whom shall be appointed by their respective boards to serve for a term of one year and until their successors are qualified. Each such member may be represented by an alternate member designated by the respective board, who shall, when sitting, have the same authority as the regular member.

4 Municipal Budget Law; Duties and Authority of the Budget Committee. Amend RSA 32:16, I to read as follows:

I. To prepare the budget as provided in RSA 32:5 for submission to each annual or special meeting of the voters of the municipality, and, if the municipality is a town, the budgets of any

school district ***to which this subdivision applies*** or village district wholly within the town, unless the warrant for such meeting does not propose any appropriation.

5 Applicability. The provisions of RSA 32:14-23 shall continue to apply to school districts to which the provisions of RSA 32:14-23 applied prior to the effective date of this act by virtue of their being wholly within a town adopting the provisions of RSA 32:14-23. Any such school district may rescind the applicability of the provisions of RSA 32:14-23 pursuant to RSA 32:14.

6 Effective Date. This act shall take effect 60 days after its passage.

2002-2924h

AMENDED ANALYSIS

This bill eliminates the automatic applicability of the municipal budget committee laws to school districts located wholly within towns adopting those provisions.

Rep. Henderson, Rock. 20
March 13, 2002
2002-2943h
03/10

Amendment to HB 1483

Amend the title of the bill by replacing it with the following:

AN ACT relative to municipal budget committees.

Amend the bill by replacing all after the enacting clause with the following:

1 Municipal Budget Law; Application; Budget Committee; School Districts. Amend RSA 32:2 to read as follows:

32:2 Application. RSA 32:1-13, shall apply to all towns, school districts, cooperative school districts, village districts, and any other municipal entities, including those created pursuant to RSA 53-A or 53-B, which adopt their budgets at an annual meeting of their voters. RSA 32:14-23, concerning budget committees, shall apply only in those towns or districts adopting that subdivision pursuant to RSA 32:14, I, and shall apply automatically in [~~school districts or~~] village districts located wholly within towns adopting that subdivision.

2 Municipal Budget Law; Budget Committee; Adoption; School District or Village District. Amend RSA 32:14, I(d) to read as follows:

(d) By any school district or village district which adopts its budget at an annual meeting of its voters[~~, but which lies wholly within a municipality that lacks authority to adopt this subdivision~~].

3 Municipal Budget Law; Budget Committee Membership; School Board Members. Amend RSA 32:15, I(b) to read as follows:

(b) One member of the governing body of the municipality and, if the municipality is a town, one member of the school board of each school district ***which has adopted the provisions of this subdivision and which is*** wholly within the town and one member of each village district wholly within the town, all of whom shall be appointed by their respective boards to serve for a term of one year and until their successors are qualified. Each such member may be represented by an alternate member designated by the respective board, who shall, when sitting, have the same authority as the regular member.

4 Municipal Budget Law; Budget Committee; Duties, Authority, and Limitations; School Districts. Amend RSA 32:16 through 32:18-a to read as follows:

32:16 Duties and Authority of the Budget Committee. In any town ***or school district*** which has adopted the provisions of this subdivision, the budget committee shall have the following duties

and responsibilities:

I. To prepare the budget as provided in RSA 32:5 for submission to each annual or special meeting of the voters of the municipality ***or school district***, and, if the municipality is a town, the budgets of any school district ***to which this subdivision applies*** or village district wholly within the town, unless the warrant for such meeting does not propose any appropriation.

II. To confer with the governing body or bodies and with other officers, department heads, and other officials, relative to estimated costs, revenues anticipated, and services performed to the extent deemed necessary by the budget committee. It shall be the duty of all such officers and other persons to furnish such pertinent information to the budget committee.

III. To conduct the public hearings required under RSA 32:5, I.

IV. To forward copies of the final budgets to the clerk or clerks, as required by RSA 32:5, VI, and, in addition, to deliver 2 copies of such budgets and recommendations upon special warrant articles to the respective governing body or bodies at least 20 days before the date set for the annual or special meeting, to be posted with the warrant.

32:17 Duties of Governing Body and Other Officials. The governing bodies of municipalities ***or school districts*** adopting this subdivision, or of ***village*** districts which are wholly within towns adopting this subdivision, shall review the statements submitted to them under RSA 32:4 and shall submit their own recommendations to the budget committee, together with all information necessary for the preparation of the annual budget, including each purpose for which an appropriation is sought and each item of anticipated revenue, at such time as the budget committee shall fix. In the case of a special meeting calling for the appropriation of money, the governing body shall submit such information not later than 5 days prior to the required public hearing. Department heads and other officers shall submit their departmental statements of estimated expenditures and receipts to the budget committee, if requested.

32:18 Limitation of Appropriations. In any municipality ***or school district*** electing this subdivision, or any ***village*** district wholly within a town electing this subdivision, the total amount appropriated at any annual meeting shall not exceed by more than 10 percent the total amount recommended by the budget committee for such meeting. These totals shall include appropriations contained in special warrant articles. Money may be raised and appropriated for purposes included in the budget or in the warrant and not recommended by the budget committee, but not to an amount which would increase the total appropriations by more than the 10 percent allowed under this paragraph. The 10 percent increase allowable under this paragraph shall be computed on the total amount recommended by the budget committee less that part of any appropriation item which constitutes fixed charges. Fixed charges shall include appropriations for:

I. Bonds, and all interest and principal payments thereon.

II. Notes, except tax anticipation notes, and all interest and principal payments thereon.

III. Mandatory assessments imposed on towns by the county, state, or federal governments.

32:18-a Legislative Body Override of Limitation of Appropriations.

I. Notwithstanding any other provision of law, in any municipality ***or school district*** electing this subdivision, or any ***village*** district wholly within a town electing this subdivision, if a bond request is not recommended in its entirety by the budget committee, the governing body of such municipality ***or school district***, after a majority vote by the governing body of the municipality ***or school district*** in favor of the bond request at a duly posted meeting, shall place the bond request on the warrant.

II. The legislative body of any municipality ***or school district*** described in RSA 32:18-a, I, may approve a bond request despite the 10 percent limitation provided in RSA 32:18 in the following manner:

(a) The governing body shall place the following statement at the beginning of the warrant article for such bond request: "Passage of this article shall override the 10 percent limitation imposed on this appropriation due to the non-recommendation of the budget committee.' Immediately below the bond request on the warrant shall be displayed (1) the recommendation of the governing body and (2) the recommendation of the budget committee, as included in the budget forms for the annual meeting pursuant to RSA 32:5, IV.

(b) If those voting "Yes' on the bond request satisfy the requirements of RSA 33:8, the bond request is thereby approved.

III. If the bond request is approved pursuant to RSA 32:18-a, the governing body of such municipality ***or school district*** shall forward a copy of the minutes of the duly posted meeting described in RSA 32:18-a, I to the commissioner of the department of revenue administration.

5 Municipal Budget Law; Budget Committee; At Special Meetings; School District. Amend RSA 32:20 to read as follows:

32:20 At Special Meetings. So long as the provisions of this subdivision remain in force in any municipality ***or school district***, no appropriation shall be made at any special meeting for any purpose not approved by the budget committee, unless it is within the allowable 10 percent increase if RSA 32:18 has been adopted, except as provided in RSA 32:19 or 32:18-a.

6 Municipal Budget Law; Budget Committee; Exceptions; Village District. Amend RSA 32:21 to read as follows:

32:21 Exceptions. In cases where the town or a ***village*** district wholly within the town has been ordered by the department of environmental services, under the provisions of RSA 147, 485, or 485-A, to install, enlarge, or improve waterworks or to install, enlarge, or improve sewerage, sewage, or waste treatment facilities, the 10 percent limitation of RSA 32:18 and 20, shall not apply.

7 Municipal Budget Law; Budget Committee; Initiation of Removal Proceedings; School District. Amend RSA 32:23 to read as follows:

32:23 Initiation of Removal Proceedings. Upon receipt of the reports provided for by RSA 32:22, the budget committee shall examine the same promptly, and if it shall be found that the governing

body or town manager have failed to comply with the provisions of this chapter concerning expenditures, a majority of the committee, at the expense of the municipality ***or school district***, may petition the superior court for removal as provided in RSA 32:12.

8 Applicability. The provisions of RSA 32:14-23 shall continue to apply to school districts to which the provisions of RSA 32:14-23 applied prior to the effective date of this act by virtue of their being wholly within a town adopting the provisions of RSA 32:14-23. Any such school district may rescind the applicability of the provisions of RSA 32:14-23 pursuant to RSA 32:14.

9 Effective Date. This act shall take effect 60 days after its passage.

2002-2943h

AMENDED ANALYSIS

This bill eliminates the automatic applicability of the municipal budget committee laws to school districts located wholly within towns adopting those provisions.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 1483 Date 2/[redacted]/02

Committee [redacted] ED

**** Please Print All Information ****

Name	Address	Phone	Representing	(check one) Pro	Con
STANLEY M. LAPINSKAS	11 HILLSIDE DR. NASHUA NH 03064	603-889-9397	SELF	✓	
DENNIS G. RYDER	17 CHARLES ST NASHUA NH	881 8472	SELF	✓	
Rep Lass T Christiansen				✓	

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB1483 /Amend 2924h Date 3/13/02

Committee ED

**** Please Print All Information ****

Name	Address	Phone	Representing	(check one) Pro	Con

Hearing Minutes

HOUSE COMMITTEE ON EDUCATION

PUBLIC HEARING ON HB 1483

BILL TITLE: relative to filling vacancies occurring on school boards.

DATE: March 5, 2002

LOB ROOM: 207 **Time Public Hearing Called to Order:** 10:00 A.M.

Time Adjourned: 11:00 A.M.

(please circle if present)

Committee Members: Reps Henderson, Ward, Dearborn, Flint, P. Davis, Alger, Cox, Sullivan, Carson, Colcord, Sova, Winter, L'Heureux, Yeaton, Snyder, C. Jean, Estabrook, J. White, C. Clarke and Naro.

Bill Sponsors: Rep. Gleneck, Hills 29; Rep. Albert, Straf 17; Rep. Drabinowicz, Hills 36; Rep. Artz, Hills 34

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Gleneck: The Board of Education is not elected but appointed.

Rep. Winter: The way its worded may leave open seat for more than 90 days.

Rep. Alger: The main issue is a 28A issue.

Rep. Estabrook: When going down the list of vote getters, a person with only several votes could be elected to the board not reflecting the majority view.

Rep. Gleneck: The voters would have not received the credentials of the voter.

Rep. Snyder: Would this take the city boards ability to appoint away?

Rep. Estabrook: The bill takes away the school board's ability to appoint.

Rep. Russ Albert: This prevents the Chairman of the Board of Education a chance to stack the deck.

Rep. Jean: Wouldn't it be up to the majority of the school board to appoint for up to one year?

Rep. Winter: What ever people that are on the list by number of votes would be placed at the highest vote getter would be appointed.

Rep. Alger: You must be a resident of the town so Mickey Mouse wouldn't be a resident and wouldn't be eligible for office.

Dean Michner: Opposes. Statute was originally in place in 1921. It would have unintended consequences and office holders would not have appropriate credentials based on write-ins, etc. School boards are elected and represent the voters.

Rep. Henderson: Is there a common ground, if the law says if the election was contested, only ballot candidates and next highest vote getters?

Rep. Cox: Unintended consequences should be a percentage of vote standard to be used.

*Lucille Lapinskas: This previous testimony is bogged down in minutia. The will of the people is not being fulfilled. It seems fair to the next highest vote getter the school board appoints. People appointed into office say one thing and do something different.

Fred Teeboom: Supports. I received 1000 votes for school board and was looked over when appointment by the school board was made. Amend the bill by eliminating the write-in votes. School boards do not want members who are not school oriented. The education lobby tries to control the school boards.

Henry McElvoy: Systems Analysist and teacher . Some communities are going against the law – Nashua is one of them. I received 775 votes and was overbooked when school board appointed someone else who didn't even run. Please clarify the law so the will of the people will be done.

Rep. Jean: A write-in could be valid just for the writing off.

Rep. Alger: Do you support?

Henry Elvoy: I think the bill is to support the will of the people.

Rep. Winter: The RSA says school board will appoint to fill vacancies

Pink Cards:

Rep. David Gleneck, 34 Tampa St., Nashua, NH, tel. 882-9727. Represents Nashua Ward 4. Supports the bill.

Lucille Lapinskas, 11 Hillside Dr., Nashua, NH 03064, tel. 889-9397. Represents self. Supports the bill.

Fred Teeboom, 24 Cheyenne Dr., Nashua, NH 03063, tel. 889-2316. Represents self. Supports the bill.

Dean Michener, Concord, NH, tel. 228-2061. Represents NH School Boards Assn. Opposes the bill.

Henry, McElroy, 15 Iroquois Rd., Nashua, NH, tel. 881-5891. Represents self. Supports the bill.

Rep. T. Drabinowicz, 56A Temple St., Nashua, NH 03060, tel. 882-2864. Represents Dist 36. Supports the bill.

Rep. Russ Albert, 230 Gonic Rd., Rochester, NH, tel. 332-9638. Supports the bill.

Respectfully submitted,

Bruce L Dearborn

Rep. Bruce L. Dearborn,
Committee Clerk

HB 1483 - germane amendment

HOUSE COMMITTEE ON EDUCATION

PUBLIC HEARING ON HB 1483

NON-GERMANE AMENDMENT ONLY

BILL TITLE: relative to filling vacancies occurring on school boards

DATE: March 13, 2002

LOB ROOM: 207 **Time Public Hearing Called to Order:** 2:00 P.M.

Time Adjourned: 3:00 P.M.

(please circle if present)

Committee Members: Reps. Henderson, Ward, Dearborn, Flint, P. Davis, Alger, Cox, Sullivan, Carson, Colcord, Sova, Winter, L'Heureux, Yeaton, Snyder, C. Jean, Estabrook, J. White, C. Clarke and Naro.

Bill Sponsors: Rep. Gleneck, Hills 29; Rep. Albert, Straf 17; Rep. Drabinowicz, Hills 36; Rep. Artz, Hills 34

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Henderson. Article 44, Municipal Budget Act. Exeter Town Meeting. If adopted, automatically commits all contained school districts to municipal budget law. Should have municipal budget law apply to schools only if approved at a school district meeting. Caps 10% amendments. Rep. Winters: Does the municipal budget law require a budget committee to act on both town and school budgets? Answer: Yes. Rep. Sova: School district and town budgets are not the same. Rep. Estabrook: What school districts are included? Answer: Only those within the municipality. Rep. Winters: What about the elementary and co-op district in Exeter? Answer: This would not affect the co-op district.

Paul Bergeron, City Clerk, Nashua. Opposed to HB 1483 – changing.

Barbara Robinson, Director, Municipal Finance Bureau, Department of Revenue Administration. Not opposed. Municipal Budget Act. Budget committee and selectmen's budget. Cap of 10% over budget comm. Selectmen on school budget committee? Automatically on town budget committee. Rep. Sova: Would you have 2 or 3 budget committees? Answer: Same people on all committees.

Pink Cards:

- Rep. Warren Henderson – no indication of support or opposition.
- Paul Bergeron, City Clerk, Nashua. No indication of support or opposition.
- Barbara Robinson, representing Department of Revenue Administration, 45 Chenell Drive, Concord, NH, 271-3397. Opposes the bill.
- Dean Michener, Concord, tel. 228-2061. Represents NH School Board Assn. Supports bill/wAM.

Respectfully submitted,

Rep. Russell N. Cox
Acting Committee Clerk

Testimony

Testimony on HB 1483 (Education)
2002 Session
For elected board
Not appointed board

I support this bill because it seems only fair to select the next highest vote getter.

Fair to the voters who voted for the candidate and fair to the candidate who took the time to run.

After the last election in Nashua for the school board several members on the board resigned and the school board selected someone who had not been a candidate in that election but had been voted out of office in the previous election.

Lucille Lapinskas
11 Hillside Dr.
Nashua, N.H. 03064
889-9397
Tues. March 5, 2002

HOUSE COMMITTEE RESEARCH OFFICE
New Hampshire House of Representatives
4th Floor, Legislative Office Building
Concord, New Hampshire 03301
TDD Access: Relay NH
1-800-735-2964

603-271-3600

MEMORANDUM

TO: **Representative Warren Henderson, Chairman**
Education Committee

FROM: **Ann FitzGerald**
Committee Researcher

DATE: **March 13, 2002**

SUBJ: **HB 1483, Relative to filling vacancies occurring on school boards**

You asked what effect HB 1483 would have on current election law and practice. I contacted the NH Municipal Association, Secretary of State's Office, Rochester City Hall and Nashua City Hall.

The NH Municipal Association explained that every city charter is different and each city needs to be contacted to clearly understand how HB 1483 would affect their charters.

The Secretary of State's Office noted that this would be a substantial change to the current election laws. They also stated that it would be opposite to the current practice in many communities and would like to take some time to study the ramifications of this legislation.

The city of Nashua stated that their school board has filled vacancies by appointing the next highest vote getter as well as soliciting applications and conducting interviews for the opened position. The latter procedure was used most recently. This common practice is not written into the city charter. However, the Nashua School Board has prepared language on this issue to propose to the City Policies and Procedures Committee for their approval. (attachment A)

The city of Rochester vacancy practice is clearly stated in their city charter (attachment B).

ATTACHMENT A

FAX MESSAGE

Date: March 12, 2002

Total Pages Including Cover Sheet: 2

TO: Senator Jane O'Hearn

FAX NO: 886-6728

FROM: Stephen M. Bennett, Esq.
Office of Corporation Counsel
229 Main Street
Nashua, NH 03061-2019

Tel: 589-3250 Fax: 589-3259

RE: House Bill 1483 – filling vacancies on school boards.

MESSAGE: Enclosed please find a copy of the proposed Nashua School Board policy for filling Board vacancies. This proposed policy will be presented to the Policies and Procedures Committee tonight, March 12, 2002. This proposed policy sets forth the procedure that has been used by the Board to fill several vacancies over the last two years. I spoke briefly with Chairman Capasso in an attempt to determine whether the proposed policy would pass essentially intact. It is his belief, that with some minor adjustments, the proposed policy will be voted in by the Board membership. If you have any further questions regarding this proposed policy, please feel free to contact Mr. Capasso (889-2704).

Should you have any more questions which I can answer, please feel free to contact me.

ATTENTION - CONFIDENTIALITY NOTE

This facsimile transmission and the accompanying material contain confidential information from the City of Nashua's Office of Corporation Counsel that may be privileged. The information is for the exclusive use of the addressee named on this transmission sheet. Disclosure, copying, distribution or use of the contents of the material transmitted by person(s) other than the intended recipient is prohibited. If you have received this facsimile in error, please notify us immediately by telephone so that we may arrange to retrieve these documents.

DRAFT POPPS POLICY: 3/12/02

PROCEDURE FOR FILLING A BOARD OF EDUCATION VACANCY

State law requires a school board to fill vacancies occurring on the school board (RSA 671:33). School board members appointed in this manner serve until the next district election, at which time the voters elect a replacement for the balance of the unexpired term.

Voting by the school board to fill a vacancy must be done in public session by roll-call vote. The appointment of a replacement requires a majority vote at a legal meeting where a quorum is present.

The following procedure will be used by the Nashua Board of Education in filling a board vacancy:

- The Board will establish a date and time by which applicants can submit a letter of application and a resume, and a press release containing that information will be sent to the local newspaper.
- After the due date for applications, the Board will schedule a special public meeting for the purpose of filling the vacancy.
- Applicants will be invited to the special public meeting, where they will be given up to five minutes each to explain why they would like to fill the vacancy.
- Following the applicant presentations, Board members will vote for the candidate of their choice in public session by roll-call vote.
- The applicant receiving the majority of the votes will be sworn in by the City Corporation Counsel or Deputy Counsel.

(Note: Reviewed and approved by Attorney Steve Bennett on 3/12/02.)

Bd approved _____

TOTAL P.02

ATTACHMENT B

by law which shall be filed and kept in the office of the City Clerk.

SECTION 66: NOTICE OF ELECTION OR APPOINTMENT

The City Clerk shall mail written notice of election or appointment to any City officer thus selected within forty-eight (48) hours after the appointment or the election result is announced. If within ten (10) days from the date the officer's term of office begins such officer does not take, subscribe to, and file with the City Clerk an oath of office, then the officer shall be deemed to have refused the office, the office shall be declared vacant, and the office shall be filled as provided by this Charter or otherwise by ordinance.

SECTION 67: VACANCY DEFINED

In addition to other provisions of this Charter, a vacancy in any City office shall exist when an officer dies, resigns, is removed from office, is convicted of a felony, or is judicially declared to be mentally incompetent.

SECTION 68: VACANCIES IN ELECTED OFFICES

Vacancies occurring in any City Council, School Board, or Police Commission seat shall be filled until the next regular municipal election by the City Council's election, by secret ballot, of some qualified person. Any member of the City Council may nominate persons to fill such vacancy. The candidate receiving a majority of the ballots cast by members of the City Council at such meeting shall be declared elected. If there are more than two nominees, and no nominee receives a majority of the ballots cast, then the nominee receiving the fewest votes shall be removed from the list of nominees and another vote shall be taken. If no nominee then receives a majority of the ballots cast, then the above-described process shall be repeated until there are only two (2) nominees. The City Council shall act to thus fill such vacancy not later than the second regular City Council meeting following the creation of such vacancy, and may act only at a regular meeting of the City Council. If the term of the seat thus filled would not otherwise be open for election at the first regular municipal election following the occurrence of such vacancy, then at said municipal election the seat shall be filled for the balance of the unexpired term.

Vacancies occurring in the office of Ward Moderator, Ward Clerk, Selectman, or Supervisor of the Checklist shall be filled by the City Council for the balance of the unexpired term. In filling such vacancies, the City Council shall conduct an election in the manner prescribed in the preceding paragraph for vacancies of other elected offices.

SECTION 69: SALARIES OF ELECTED OFFICIALS

All elected City officials shall receive such salary as may be designated by ordinance. Any increase or decrease in such salary shall not become effective

P.02

JAN-10-1900 01:55

Voting Sheets

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on HB 1483

BILL TITLE: **relative to filling vacancies occurring on school boards.**

DATE: 3/13/02

LOB ROOM: 207

Amendments:

Sponsor: Rep. Gleneck	OLS Document #:	2002	2971h
Sponsor: Rep. Henderson	OLS Document #:	2002	2924h
Sponsor: Rep. Henderson	OLS Document #:	2002	2943h

Motions: (OTP), OTP/A, ITL, Interim Study (Please circle one.) **2943h ONLY**

Moved by Rep. Henderson

Seconded by Rep. L'Heureux

Vote: 9-4 (Please attach record of roll call vote.)

Motions: OTP, (OTP/A), ITL, Interim Study (Please circle one.)

Moved by Rep. L'Heureux

Seconded by Rep. Henderson

Vote: 9-4 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: No

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Russell N. Cox, Acting Clerk

OFFICE OF THE HOUSE CLERK 2002 SESSION

EDUCATION

Bill #: HB 1483 Title: Amendment 2943h to HB 1483

PH Date: 3/05/02 Exec Session Date: ___/___/___

Motion: _____ Amendment #: _____

MEMBER	YEAS	NAYS
Henderson. Warren C. Chairman	✓	
Ward. Brien L. V Chairman		
Dearborn. Bruce L. Clerk		
Flint. Gordon B		
Davis. Perlev E		✓
Alger. John R M	✓	
Cox. Russell N	✓	
Sullivan. P Judith		
Carson. Sharon M		
Colcord. J D		✓
Sova. Charles E		✓
Winter. Steven J	✓	
L'Heureux. Stephen R	✓	
Yeaton. Charles B		
Snyder. Clair A		
Jean. Claudette R	✓	
Estabrook. Iris W	✓	
White. John M	✓	
Clarke. Claire D		✓
Naro. Debra A	✓	
TOTAL VOTE:	9	4

Printed: 12/19/2001

EDUCATION

Bill #: HB 1483 **Title:** HB 1483 as Amended

PH Date: 3/05/02 Exec Session Date: 3/13/02

Motion: _____ Amendment #: _____

MEMBER	YEAS	NAYS
Henderson, Warren C, Chairman	✓	
Ward, Brien L, V Chairman		
Dearborn, Bruce L, Clerk		
Flint, Gordon B		
Davis, Perlev E		✓
Alger, John R M	✓	
Cox, Russell N	✓	
Sullivan, P Judith		
Carson, Sharon M		
Colcord, J D		✓
Sova, Charles E		✓
Winter, Steven J	✓	
L'Heureux, Stephen R	✓	
Yeaton, Charles B		
Snyder, Clair A		
Jean, Claudette R	✓	
Estabrook, Iris W	✓	
White, John M	✓	
Clarke, Claire D		✓
Naro, Debra A	✓	
TOTAL VOTE:	9	4

Printed: 12/19/2001

Committee Report

COMMITTEE REPORT

COMMITTEE: **Education**

BILL NUMBER: **HB 1483**

TITLE: relative to filling vacancies occurring on school boards.

DATE: 3/13/02 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

In its original form, HB 1483 would have dictated in state law how cities and towns must fill vacancies on school boards. The bill would have rejected language in city charters across the state that was in conflict with the legislation. The committee felt the bill would have created more problems than it solved. In fact, there was so little support for the bill that one amendment was withdrawn and another failed for lack of a second. Rather than simply recommend "ITL", however, the committee adopted an amendment to address a different aspect of how we vote on school issues. After a separate public hearing as required by house rules, the committee adopted an amendment clarifying that voters who wish to apply the provisions of the Municipal Budget Act to their local schools must place a warrant on the school ballot, rather than on the town ballot as is stated in present law. The committee felt that this change would help assure that voters were more fully informed as to how their vote would affect their schools. Consistent with current law, only one budget committee would be formed, which would cover the town and/or local school. All towns and all school districts currently subject to the Municipal Budget Act would continue to be covered by it unless the citizens vote to withdraw in a manner consistent with current law.

Vote 9-4.

Rep. Stephen R. L'Heureux
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

Education

HB 1483, relative to filling vacancies occurring on school boards. **OUGHT TO PASS WITH AMENDMENT**

Rep. Stephen R. L'Heureux for Education: In its original form, HB 1483 would have dictated in state law how cities and towns must fill vacancies on school boards. The bill would have rejected language in city charters across the state that was in conflict with the legislation. The committee felt the bill would have created more problems than it solved. In fact, there was so little support for the bill that one amendment was withdrawn and another failed for lack of a second. Rather than simply recommend "ITL", however, the committee adopted an amendment to address a different aspect of how we vote on school issues. After a separate public hearing as required by house rules, the committee adopted an amendment clarifying that voters who wish to apply the provisions of the Municipal Budget Act to their local schools must place a warrant on the school ballot, rather than on the town ballot as is stated in present law. The committee felt that this change would help assure that voters were more fully informed as to how their vote would affect their schools. Consistent with current law, only one budget committee would be formed, which would cover the town and/or local school. All towns and all school districts currently subject to the Municipal Budget Act would continue to be covered by it unless the citizens vote to withdraw in a manner consistent with current law. **Vote 9-4.**

COMMITTEE REPORT

COMMITTEE: EDUCATION

BILL NUMBER: HB 1483

TITLE:

DATE: 3/13/08 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

OUGHT TO PASS AS AMENDED

cc - Wendy

Vote 9-4

Rep. Stephen R Hoell
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

IN ITS ORIGINAL FORM, HB 1483 WOULD HAVE DICTATED IN STATE LAW HOW CITIES AND TOWNS MUST FILL VACANCIES ON SCHOOL BOARDS. ~~WHEN A MEMBER RESIGNS~~, THE BILL WOULD HAVE REJECTED LANGUAGE IN ~~XX~~ CITY CHARTERS ACROSS THE STATE THAT WAS IN CONFLICT WITH THE LEGISLATION. ~~IT~~ THE COMMITTEE FELT THE BILL WOULD WOULD HAVE CREATED MORE PROBLEMS THAN IT SOLVED. IN FACT, THERE WAS SO LITTLE SUPPORT FOR THE BILL THAT ONE AMENDMENT WAS ~~WOULD~~ WITHDRAWN AND ANOTHER FAILED FOR LACK OF ~~XX~~ A SECOND.

RATHER THAN SIMPLY RECOMMEND "ITL", HOWEVER, THE COMMITTEE ADOPTED AN AMENDMENT TO ADDRESS A DIFFERENT ASPECT ~~OF SCHOOLS~~ OF HOW WE VOTE ON SCHOOL ISSUES. AFTER A SEPARATE PUBLIC HEARING AS REQUIRED BY HOUSE RULES, THE COMMITTEE ADOPTED AN AMENDMENT CLARIFYING THAT VOTERS WHO WISH TO APPLY THE PROVISIONS OF THE MUNICIPAL BUDGET ACT TO THEIR LOCAL SCHOOLS ((MUST PLACE A WARRANT ON THE SCHOOL)) BALLOT, RATHER THAN ON THE TOWN BALLOT AS IS STATED IN PRESENT LAW. THE COMMITTEE FELT THAT THIS CHANGE WOULD HELP ASSURE THAT VOTERS ~~KNEW~~ THAT WERE MORE FULLY INFORMED AS TO HOW THE VOTE WOULD AFFECT THEIR SCHOOLS.

CONSISTENT WITH CURRENT LAW, ONLY ONE BUDGET COMMITTEE WOULD BE FORMED, WHICH WOULD COVER THE TOWN AND/OR LOCAL SCHOOL. ALL TOWN AND SCHOOL DISTRICTS WOULD CONTINUE TO BE GOVERNED BY THE MUNICIPAL BUDGET ACT