Bill as Introduced

SB 32 – AS INTRODUCED

2003 SESSION

03-0592
08/10

SENATE BILL ***SB 32***

AN ACT relative to municipal budget recommendations.

SPONSORS: Sen. Clegg, Dist 14; Sen. Boyce, Dist 4; Rep. Kurk, Hills 48; Rep. C. Christensen, Hills 58; Rep. Packard, Rock 75; Rep. Giuda, Graf 13

COMMITTEE: Public Affairs

ANALYSIS

This bill clarifies which entity shall recommend a municipal budget.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 32 – AS INTRODUCED

03-0592
08/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to municipal budget recommendations.

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

1 Municipal Budget Law; Definitions. Amend RSA 32:3, III to read as follows:

III. "Budget" means a statement of recommended appropriations and anticipated revenues submitted to the legislative body ***by the budget committee, or the governing body if there is no budget committee,*** as an attachment to, and as part of the warrant for, an annual or special meeting.

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

Committee Minutes

Date: January 22, 2003
Time: 9:15 AM
Room: SH, Room 105-A

The Senate Committee on Public Affairs held a hearing on the following:

SB 32 relative to municipal budget recommendations.

Members of Committee present: Senator Roberge
Senator Larsen
Senator Barnes
Senator Morse

The Chair, Senator Sheila Roberge, opened the hearing.

Senator Robert Clegg, Jr., D. 14: Thank you Madam Chairman and members of the committee. For the record, Senator Clegg, from District 14, Hudson, Londonderry and Auburn. This bill is an attempt to clarify what some people think is not clear in the law. Hudson happens to be a Municipal Budget Town, and once the Selectmen and the school board are done with their budgets, obviously they come to the Municipal Budget Committee, and a new number or maybe not a new number is arrived at, and that's the number that goes to the Town Meeting. Under the current law, at the Town Meeting you are allowed to add no more than 10% above the number from the Budget Committee. However, also being a Senate Bill 2 town, our final budget goes on the warrant and we have the secret ballot. Now what they are telling us, is that, regardless of what happens with the Municipal Budget Committee, and Town Meeting, is a group of lawyers advising the schools and I guess the selectmen that the law allows them to drop the warrant, so the warrant that the people vote on doesn't necessarily have to have the budget committee's number, but can have the original number from the school board or from the selectmen.

I don't think that was ever our intent. If you have the budget committee, it was the budget committee's number that everybody went at. So what I have attempted to do with this bill, is say that the number that goes on the warrant is the number that comes out of the budget committee.

Senator Sheila Roberge, D. 9: Yes, Senator Barnes.

Senator John S. Barnes, Jr., D. 17: When does Deliberate Session come into play? Why do you have Deliberative Session if you are going to do it this way? It won't be Deliberative Session as it can go up or down with what comes out of it. If the budget committee isn't the sole source of the numbers.

Senator Robert Clegg, Jr., D. 14: That's correct, but the budget committee's number's at Deliberative Session can't be increased by more than 10%, and that would be the number that would go on. What a particular law firm is telling communities is that they can ignore that one too, if it's still not as high as the number that the school board for instance, on it, when they do up their warrant. They do up the warrant with whatever number they want, and that is the number you vote with. I don't believe that is the case, I believe that what we do in our Deliberative Session is the number, and if we increased what the budget committee has done that's the number that goes on warrant.

Senator John S. Barnes, Jr., D. 17: You were talking about the budget committee. So the budget committee, the people in Deliberative Session makes that decision.

Senator Robert Clegg, Jr., D. 14: Correct.

Senator John S. Barnes, Jr., D. 17: It's not the budget committee. The budget committee comes in with a number but that's..

Senator Robert Clegg, Jr., D. 14: Comes in with a number, right.

Senator John S. Barnes, Jr., D. 17: That's not the number that goes on the ballot necessarily.

Senator Robert Clegg, Jr., D. 14: If there is no change to it, it would be the number...

Senator John S. Barnes, Jr., D. 17: If there is no change, but that is what Deliberative Session is all about.

Senator Robert Clegg, Jr., D. 14: Right.

Senator John S. Barnes, Jr., D. 17: The people who speak go up and down or whatever.

Senator Robert Clegg, Jr., D. 14: The problem that I am trying to point out is that if the budget committee reduced the school board's number by 30%

Senator John S. Barnes, Jr., D. 17: That happened in Raymond last night.

Senator Robert Clegg, Jr., D. 14: I won't ask you which side you are on. So the budget committee has a 30% lower number. When that budget committee recommendation goes to the town meeting according to the law you can only increase it by 10%. Now, if you increase it by 10% it's still 20% lower then the original school board number. What's happening is legal advise is being given to the school board that when they do your warrant they use their number that was 20% higher then what came out of the Deliberative Session.

Senator John S. Barnes, Jr., D. 17: That sounds to me you have a law firm that has a problem. Just one law firm...

Senator Robert Clegg, Jr., D. 14: I don't think it's just one law firm, Senator, I think that it's going across the state and other people behind me will testify that that it's not just an issue for Hudson, because Hudson doesn't happen to be one of the town's that's following that advise.

Senator John S. Barnes, Jr., D. 17: Well that's good news.

Chair, Senator Sheila Roberge, D. 9: Any questions? Senator Larsen.

Senator Sylvia B. Larsen, D. 15: I'm just exploring in my mind that question. Isn't there an issue of almost free speech that the voter's are precluded under your suggestion from having an opportunity to vote on returning. Say that the majority of voter's wanted to return the school district budget, but the budget committee reduced it 30%, and under an SB 2 town there is no way to return to that 30%, that the question to the voters whether they preferred the 30% or the school district budget, the school for the budget to that which was selected by the smaller Municipal Budget Committee. So you are actually confining the right to choose by majority vote under the scenario you are suggesting.

Senator Robert Clegg, Jr., D. 14: The town has two choices. They can have the Municipal Budget Committee or they don't have to have one. So if they choose to go the way that you did and just vote up or down on the school selectmen, they do away with their budget committee.

Senator Sylvia B. Larsen, D. 15: But in the year in which it is proposed a 30% reduction you can't eliminate the budget committee that year so you have at least one year when the majority's will could be held up by a committee that they didn't agree with.

Senator Robert Clegg, Jr., D. 14: That's correct, but unfortunately you can't have it both ways. If you don't have a Municipal Budget Committee and you are suck with the school board or the selectmen's budget for the year that you are trying, and the budget committee has the same problem. So every town has a right to put in a budget committee if they decide that a budget committee is being unreasonable then you do away with it, but if you are going to have one, and you look at the law on budget committees what the intent is. If you are going to have one then certainly you should follow the law, or at least what I believe is the intent of the legislature and continue to operate under those statutes.

You shouldn't be looking for loop holes that say, Well, the job on the school board is to draft the warrant, so since it's your job you can put whatever number you want in there. That is not honest to the voters. Remembering that the budget committee is made up of people elected by the voters and in my community it also, and I think every community consists of a member of the school board and a member of the selectmen.

Senator John S. Barnes, Jr., D. 17: Yes.

Senator Robert Clegg, Jr., D. 14: So, it's not just a group of yahoos that jump in and decide to make changes.

Senator John S. Barnes, Jr., D. 17: Except for those two representatives...(tape recorder did not pick up end of sentence)

Chair, Senator Sheila Roberge, D. 9: Yes, Senator Morse.

Senator Chuck Morse, D. 22: Senator Clegg, help me out with this, we have two forms down in Salem, we have Senate Bill 2 on the school side and we have an actual charter that we developed on the town side. Traditionally, the selectmen, they go through the budget process, they have a Deliberative Session, and they decide if it's a 20 million dollar if they went in with 22 million, and the budget committee, or they went in, let's get outside of the 10% rule because that doesn't have anything to do with this. If they went in with a 24 million dollar budget and the budget committee cut it down to 20 million, they decide at the Deliberative Meeting they put it to the voters, they may add back in that 4 million. Essentially that's going to cut off a lot of stuff the day of the town meeting that could qualify if they add that back to the operating budget that night as the number that goes on the ballot. They intent here would be they couldn't add that 4 million back in?

Senator Robert Clegg, Jr., D. 14: No, the budget committee number is the number that usually ends up, and I have a member of my budget committee behind me. The budget committee number is usually the number that is arrived at, at the Deliberative Session. They come in to Deliberative Session with, and by the way you should probably go SB 2 on both sides of your town.

Senator Chuck Morse, D. 22: We're close.

Senator Robert Clegg, Jr., D. 14: The Deliberative Session starts out with two numbers. We usually supplied my town two numbers. One is what the selectmen asked for, for instance, and the other number is what the budget committee number is. Under state law, we are only allowed to increase the budget committee's number by 10%. So if there is only a 4 million-dollar difference between the two, when we add the 4 million dollars in that's the number that would go into the warrant.

If the voters didn't add the 4 million dollars back in at the Deliberative Session what some are saying is regardless of the fact that 4 million dollars has been cut out the selectmen since they draft the warrant have the right to put in their own number. That is what we are trying to avoid. Whose number goes on the ballot after the Deliberative Session, if there has been no chance by the people, do the selectmen have the right to just ignore what has happened and the rest of the situation and do whatever they want to do.

Senator Chuck Morse, D. 22: Thank you for that clarification.

Chair. Senator Sheila Roberge, D. 9: Thank you very much.

Senator Robert Clegg, Jr., D. 14: Thank you. Chris Christensen.

Rep. Chris Christensen, D. 58: Thank you Madam Chairman, members of the committee. I'm Representative Chris Christensen, Hillsborough, District 58, representing the towns of Merrimack and Litchfield. Senator Clegg said most of the things that I would have said. Originally, I was in this because I had drafted or asked to redraft a similar bill, we came up with exactly the same language. It seemed to have no sense to have two parallel bills. I think at least from my clarity of thinking I think of who owns the budget at what point in the process. So the selectmen or the school board of those districts makes up a budget that's their budget they own it at that point. They submit it to the budget committee, the budget committee reworks it, if you will, or approves it, or whatever it is they go through their process and they own it at that point, that's what goes onto the warrant.

When it goes to, in case of an SB 2 town, when it goes to the legislative body town meeting and comes out of that body then at that point the budget committee doesn't necessarily own it. The town meeting owns it or the school district meeting, as the case may be, and that's the number that would be printed on the ballot. So I think some of the discussion that I've heard has been a question of does it get printed on the ballot, does it get printed on the warrant, those would be two different things because they occurred at a different point in time as submitted by the respective organization or body and I think this intent here is just to clarify this that the warrant is to be printed with the budget committee's budget and it's not up to the printer of the ballot or the printer of the warrant, if you will, to make changes just because they are the printer.

Chair, Senator Sheila Roberge, D. 9: Thank you.

Rep. Chris Christensen, D. 58: If you would excuse me I have another hearing at the same time. Thank you very much.

Chair, Senator Sheila Roberge, D. 9: Howard Denforth.

Howard Dilworth: No, Howard Dilworth.

Chair, Senator Sheila Roberge, D. 9: Dilworth.

Howard Dilworth, Chairman of the Municipal Budget Committee:
Good morning. My name is Howard Dilworth, Jr., and I am the Chairman of the Municipal Budget Committee for the Town of Hudson. I have signed to speak for myself, but I still have this role.

Senator John S. Barnes, Jr., D. 17: My condolences.

Mr. Dilworth: Thank you very much Senator Barnes, I do know you are on the school board, so guess it goes both ways. I have been involved in municipal budgeting for ten years, which includes a term as Selectmen. I come here today in support of SB 32, as introduced by Senator Clegg and others.

Written testimony read at hearing on SB 32, see "Attachment A."

.... Placing the school board's recommended operating budget in the warrant defeats the ability of the school district meeting to fully exercise this 10% override.

Mr. Dilworth: (verbal addition to speech at hearing)

You heard here previously an example of what if they have an amount and they removed it, but if you put the governing body's number on which is higher than the budget committee, now the voter's don't have a chance to exercise the full 10% option which they are entitled to because once you fill

out the paperwork for DRA, that number is set and if the selectmen or the school board posts their number and the difference is only 7% to a maximum override, now you have denied the voters the ability to exercise their right to increase by a full 10%

Back to written testimony read at hearing on SB 32, see "Attachment A."

...RSA 32 has also always given communities the right to repeal the budget act and to have an advisory budget committee or no budget committee at all.

Mr. Dilworth: (verbal addition to speech at hearing)

For four years in Hudson, in the late eighties we had no budget committee, and the citizens found out later why we should have one and that's why they put one back.

Chair, Senator Sheila Roberge, D. 9: Senator Barnes.

Senator John S. Barnes, Jr., D. 17: Senator Clegg mentioned that there wasn't just a Town of Hudson, can you tell us some of these law firm's that are suppose to be causing a havoc out there.

Mr. Dilworth: I would be happy to Senator. It's the firm of Soule, Leslie, Zohen, Loughman (sic) and I forget who else is with that at the moment.

Senator John S. Barnes, Jr., D. 17: Probably Smith.

Mr. Dilworth: I went to a budget workshop hosted by the New Hampshire Municipal Association last fall and at that, Senator, sure, with all due apologizes to the committee, Attorney Barbara Loughman, spoke and indicated that the budget committee's number did not need to be placed on school district warrants, and that opinion was upheld by Barbara Robinson, from the Department of Revenue Administration. Now this flies in the face with what's been accepted practice in the state for probably sixty years. Other communities that have had problems with this are, I believe in Mascoma School District, Salem has been to court, twice in the last two years

over interpretations of the budget act, and Hooksett has been wrangling over this issue for two-three years, and now the Town of Litchfield, whose School Board Chairman went to a school board's association conference in the fall heard Attorney Loughman speak, high-tailed it back to Litchfield and has basically turned the whole process on it's head in Litchfield this year.

Senator John S. Barnes, Jr., D. 17: Isn't that the town that doesn't have state representative any more living there?

Mr. Dilworth: Yes, it's true Senator that's a re-districting issue, well anyway.

Senator John S. Barnes, Jr., D. 17: Allenstown and Litchfield are the two towns.

Chair, Senator Sheila Roberge, D. 9: You mentioned a Barbara Robinson, you said from DRA.

Mr. Dilworth: Yes, I heard...

Chair, Senator Sheila Roberge, D. 9: It's not Reed, it's Robinson.

Mr. Dilworth: It was Barbaras Robinson. I believe Ms. Robinson is in charge of the Municipal Services Division, but I know there is a lot of them over there. I just heard her speak, as a representative of the DRA, reaffirm Attorney Loughman's position that what has been accepted practice in the State for probably nearly sixty years is now no longer necessarily the case because lawyer's are getting paid to do what lawyer's do is split hairs.

Chair, Senator Sheila Roberge, D. 9: Senator Morse.

Senator Chuck Morse, D. 22: I need some help here. I am well aware of the Salem case, and I am a strong supporter of our budget committee that that's information that the school district is not willing to

give to the budget committee and should have to. We'll fight that battle. We have won the battle a couple of times. In any case, help me understand the budget committee goes through the process, they come up with a budget that they commend, and short of Deliberative Session, they have that budget, that's where we calculate 10% off of isn't it?

Mr. Dilworth: Basically, yes. The committee in crafting the budget preparing for the budget, I believe is a calling 35:5 and it says, "In preparing the budget, fills out a form for town and school district meetings is provided by the state, it's MS 7 for towns, MS 27 for school districts, and I believe MS 17 for village districts and in that has a listing of all of the purposes for which money has been recommended. Now there are certain items that are not to be used for the calculation of the 10% override.

Senator Chuck Morse, D. 22: I understand.

Mr. Dilworth: Collective bargaining agreements, I believe debt service is definitely one, those are subtracted off of the total bottom line and the net difference then you calculate what the 10% amount of the net difference is and the example you used, 24 million dollars, that would be, if you took out debt service and stuff, that probably would be close to 2 million dollars.

Chair Senator Sheila Roberge, D. 9: Further Questions.

Senator Chuck Morse, D. 22: What I am trying to understand though, is the budget committee, at that point, that's what the 10% rule is calculated off of.

Mr. Dilworth: Yes.

Senator Chuck Morse, D. 22: We go to Deliberative Session, Deliberative Session the body chooses to add that into a line because this usually goes into the operating budget which is where the problem is. The problem becomes those things that are further down the list, like adding a hockey team or everything that don't have a chance to get in under the 10% rule, because you are using it up, up here. That's a debate local communities

will have forever. My point is what are we trying to stop. I am working on legislation; I'm making sure the budget committee is being heard that's a different thing all together, because the schools have said they don't have to put their recommendation. What are you trying to stop, because we can only spend "x" amount of dollars?

Mr. Dilworth: What I am trying to stop here is what has been accepted practice in the state for a very long time is that the number that the budget committee recommends after their public hearing is the number that goes on the warrant for the operating budget question.

Chair, Senator Sheila Roberge, D. 9: Further question?

Senator Chuck Morse, D. 22: What about Deliberative Session money?

Mr. Dilworth: The voter's at Deliberative Session have the option of changing that number by amending it up to something as long as the total package doesn't exceed 10%. You could have something you wanted in the operating budget and add enough money into that recognizing that the items at the end of the train, if you will the caboose, there may not be enough money left for that, but that is up to the voters in the district meeting to decide if that's where they choose to want to put the money. The other thing is also the paperwork that comes from the Municipal Association, the DRA also encourages communities, particularly those that operate under Senate Bill 2, to keep a running track on when you are in danger of exceeding the 10% amount, so the meeting made aware.

Senator Chuck Morse, D. 22: Okay. I understand that, but what are we stopping. Basically, let me go back to my example. I don't want to focus on the school, because that is a Senate Bill on the side. They want to add back in that 4 million dollars.

Mr. Dilworth: Certainly.

Senator Chuck Morse, D. 22: They have 24 million dollars. The budget committee cut out 4, they want to add back that 4, basically it's always stacked. Knowing that things at the bottom are going to get cut out. You're saying that the ballot question will be the budget committee's 20 million dollars, or it will be the Deliberative Session's 24 million dollars.

Mr. Dilworth: It will be the Deliberative Session's 24 million, if that's what the Deliberative Session decides.

Senator Chuck Morse, D. 22: Okay.

Mr. Dilworth: The problem that is arising is going into Deliberative Session. Many communities use the same ballot question as is prescribed for the election, the actual ballot. They use that same question on the warrant. What's happening is, that school board's in particular, I don't really know of any towns that have done it, but school boards in particular are putting the 24 million dollar amount in the question for Deliberative Session and not the 20 million dollar amount that the budget committee is recommending. If they had placed the 20 million dollar amount in the question and meeting amended it up to 24 million dollars which has always been what's accepted practice, there is no problem here. The problem here is going into the Deliberative Session, that some of these school boards have received advise that, no, you don't have to pay any attention to what this committee of people has done, you can put your own number in there. You can put the 24 million in there and forget about the other work that these people have done to come up with 20.

This is a bill that should not have to be here. If we followed what we have done in the state since 1935, this bill wouldn't have to be here. This bill is here because there has been a problem created with some districts are getting, what I think is bad legal advise and one of them happens to be Litchfield, which Senator Clegg doesn't represent this year, now that I think about it. The previous Senator did, but we would like this cleared up. There is a lot of us that have put a lot time into this and we would just assume spend our time talking over what the numbers represent and trying to gain that special knowledge that the supreme court said we are suppose to have so that we can advise the school district or town meeting that we have actually looked at this. Instead we are finding ourselves having to go to court over something that shouldn't even be an issue.

Chair, Senator Sheila Roberge, D. 9: Senator Barnes.

Senator John S. Barnes, Jr., D. 17: Thank you. Deliberative Session. The budget committee comes in with 21 million dollars and the school board says we want 24 million dollars that's where the battle takes place.

Mr. Dilworth: Right, but the battle doesn't take place, Senator, if you don't, if you put 20 million on....

Senator John S. Barnes, Jr., D. 17: The budget committee comes in with 20 million, okay this is what we should do....

Mr. Dilworth: Okay.

Senator John S. Barnes, Jr., D. 17: The school board comes in at Deliberative Session and says they are wrong, is should be 24 million dollars, what is wrong with that?

Mr. Dilworth: Nothing. At that point there should be an amendment, to amend up the budget committees recommendation on the floor district meeting.

Senator John S. Barnes, Jr., D. 17: That's what the 50 people sitting there in Deliberative Session will vote on?

Mr. Dilworth: Yes, I would love it if it was two hundred or five hundred or whatever, but that is another issue.

Senator John S. Barnes, Jr., D. 17: 50 people are going to make that decision to battle.....

Mr. Dilworth: Yes, but they don't have that decision to make, if the warrant comes in and says that the amount of money is 20 million dollars.

Senator John S. Barnes, Jr., D. 17: The warrant comes in....

Mr. Dilworth: 24 million, I'm sorry...

Senator John S. Barnes, Jr., D. 17: ...to the budget committee that's where the battle is going to take place.

Mr. Dilworth: That's right.

Senator John S. Barnes, Jr., D. 17: ... the school board in Raymond is going battle the budget committee.

Mr. Dilworth: And if that is what you believe in, I would hope you would, but if it comes in at 24 million because your lawyer....

Senator John S. Barnes, Jr., D. 17: I have for the record, I happen to agree with the budget committee

Mr. Dilworth: That's okay.

Senator John S. Barnes, Jr., D. 17: the school board disagrees with you.

Mr. Dilworth: Yes, if the warrant comes into the school district meeting with the 24 million, now there is no debate, budget committee gets up and says, we think it should be 20 million, we are not talking about that. We're talking about 20 million. Now the budget committee is going to have to try and amend down to the 20 million where the budget that should be posted with the warrant only recommends 20 million. What is happening now is that the districts are getting a legal option that says, well, yes, they can post their MS 27, which has their recommended amount of 20 million, but we are going to come in at the warrant with 24 million. Why have this problem. Why not just go with what has always been accepted practice of yes, this committee looked at stuff; they took 4 million dollars off. The Deliberative Session is the opportunity for the school board to try and shine and convince people, that yes, the committee was wrong and it really should be 24 million,

so maybe it becomes a compromise of 22 million. When you don't give the other team the ability to come to the field and play, because you have already listed the number at what the school board started with and said, we are not going to pay attention to these folks. That's wrong.

Senator John S. Barnes, Jr., D. 17: Thank you.

Chair, Senator Sheila Roberge, D. 9: Thank you.

Mr. Dilworth: Okay. Thank you.

Chair, Senator Sheila Roberge, D. 9: Maura Carroll.

Maura Carroll, NH Municipal Association: Thank you very much, madam Chair, members of the committee. My name is Maura Carroll and I represent the NH Municipal Association and I appear today in support of Senate Bill 32, because we think it clarifies what the situation is, and for the record, we in giving legal advise to our client member communities provide dis-information that is a part of this bill. That in fact, the budget that is recommended is the budget committee's budget, if you have a municipal budget committee. It is the governing body's budget if you don't, and we have had a lot of questions over the years about who recommends the budget, and this is the advise we give, so putting it into statute clarifies for our members that that is what should happen, so we support this. We think that budget committee members like Mr. Dilworth work very hard to get that budget ready for town meeting, and it would discourage members of budget committees from serving, if in fact, you have no ability to recommend the work that you have done and spent a great deal of time doing it. So with that I thank you for the opportunity to come here.

Chair, Senator Sheila Roberge, D. 9: I heard that DRA is going in the opposite direction?

Mrs. Carroll: Well, I actually left the budget workshop before that debate took place, but I think there was disagreement between Attorney Lomen and Susan Slack, our Legal Services Counsel about that, but I had not heard

what Barbara Robinson had said, so they may disagree, I don't know the answer to that.

Senator John S. Barnes, Jr., D. 17: Further questions.

Chair, Senator Sheila Roberge, D. 9: Further Questions.

Senator John S. Barnes, Jr., D. 17: You talked to Barbara Reed, the acting commissioner to see where she is coming from?

Maura Carroll: No, because this was actually, I hadn't heard what Mr. Dilworth said until today so we hadn't followed that up with Barbara Reed or Barbara Robinson.

Chair, Senator Sheila Roberge, D. 9: Further questions.

Senator John S. Barnes, Jr., D. 17: Do you believe that should happen before you make a decision?

Mrs. Carroll: I'm very happy to call them, if they disagree with us that certainly their prerogative, but we will continue to give that advise even if you don't pass this legislation, that is the budget committee's recommendation.

Senator John S. Barnes, Jr., D. 17: I guess I would just like to hear what DRA has to say.

Chair, Senator Sheila Roberge, D. 9: Right, we should.

Senator John S. Barnes, Jr., D. 17: I'm sorry they are not here today.

Mrs. Carroll Well, there is a representative of DRA here.

Chair, Senator Sheila Roberge, D. 9: Senator Morse.

Senator Chuck Morse, D. 22: I think that just so it's very clear, because it is a very simple bill after we get through this. Basically you are not, where people will think you are jumping the gun here, you're basically saying the budget committee's budget is going to the ballot. That's not true, the budget committee's budget is going to the next session, and then the next session will send the next budget. The point is, the budget committee's budget does calculate the 10% rule. That is the easiest way to explain to people that are sitting on the Board of Selectmen of School Boards so that they understand is that all we are saying is the intent is, the budget committee's budget going to the next session, that is what you are trying to clarify here makes a lot of sense. There is no way a school board should be able to put their own budget back on, that makes a lot of sense. I think that is the clear way to explain it to the 22 members that if it went through the Senate have to go over there on a committee because you are going to have a lot of school board, and selectmen and they are going to say, they want to protect their interest. You are not doing anything different then happens today in most town, except making that clear.

Mrs. Carroll: It is the initial recommendation, Senator, and yes, in SB 2, or Charter Official Ballot Communities they have that option at the Deliberative Session to change what goes on the ballot. In a traditional town meeting the recommendation is what goes on the warrant.

Chair, Senator Sheila Roberge, D. 9: Senator Larsen.

Senator Sylvia B. Larsen, D. 15: To further understand that the option of which budget comes before the Deliberative body, under this bill it would be the budget committee's recommendation if you are in a SB 2 town, and you are in Deliberative Session you cannot get back to the 100% school board budget, for example, because of the 10% rule, is that correct?

Mrs. Carroll: Well, it depends on what the numbers are, but potentially, that may be the case, but if there is a budget committee the members of that community or district have voted to go with that process and so the live with the results of that process, part of which is the recommendation of the budget committee which may be more or less then the board of selectmen or the school board recommends. Ultimately, what happens also that there is a recommendation on the warrant about how the budget committee would recommend that the legislative body act, and how the selectmen or the school board would advise the legislative body to ask, and we actually have another bill that we are supporting that would allow, if you change the budget at the Deliberative Session, to also change that recommendation if the budget committee no longer recommends what the Deliberative Session does, or that the Board of Selectmen no longer supports that. There are lots of opportunities for people to participate in the process and understand what the consequences are going to be.

Senator Sylvia B. Larsen, D. 15: There is no way in an SB 2 Town, if a majority are convinced that the schools really need "x" and they really need to get that this year, and this particular year they are unique circumstances that the school district has needs, there is no way to return it to the school board to recommend it...

Chair, Senator Sheila Roberge, D. 9: For a vote.

Mrs. Carroll: If it's beyond the 10%, no.

Senator Sylvia B. Larsen, D. 15: That's my question. In a unique year, say, the furnace breaks, and there is a whole series of huge problems in that school district you can't get back to...

Mrs. Carroll: I misspoke, there is an ability to override, is it just in bonds?

(Collage of Mrs. Carroll) Just on bonds.

Mrs. Carroll: Which is where the biggest chunk of money would be if you are trying to build a new school, or if you are trying to add on, and that is where the ability of the legislative body to override that 10% limitation. In the regular operating budget you are right.

Senator Sylvia B. Larsen, D. 15: Further questions.

Chair, Senator Sheila Roberge, D. 9: Further questions.

Senator Sylvia B. Larsen, D. 15: You have the statute in front of you which I do not, which is RSA 32, and if I am looking at this bill, it appears that the current language says, "budget means a statement of recommended appropriations and anticipated revenues submitted to the legislative body as an attachment to and part of the warrant for an annual or special meetings." Is that correct?

Mrs. Carroll: That's correct.

Senator Sylvia B. Larsen, D. 15: So if I were a lawyer that does not, it is not a lawyer's finagling that interprets that to allow a fair amount of freedom as to who submits the budget.

Maura Carroll: We would disagree with that

Senator Sylvia B. Larsen, D. 15: In terms of the actual language of the statute, it's absolutely open to interpretation and freedom as to who submits that budget.

Maura Carroll: Well, with all due respect to the attorneys who disagree with us, we think it is quite clear that if you have a process where you have a Municipal Budget Committee, it is the budget committee that makes the recommendation of the budget. If you do not have a budget committee it is the Board of Selectmen that have the authority to recommend the budget, and we don't think based on looking at, not just that provision of the statute,

but the statute as a whole about the process is that the legislative body has adopted with regard to its budget. So if you've got, it's very clear in the statute, that if you have a budget committee that's the body that deliberates on the budget and recommends it. So have had a very difficult time understanding how you could read in that you don't have to pay any attention to the budget committee recommendation, unless it's, well, I won't even get into that.

Chair, Senator Sheila Roberge, D. 9: Senator Barnes.

Senator John S. Barnes, Jr., D. 17: Thank you madam, Chairman. I wish I had a warrant with us, I think our lawyer told us that we can override that 10%.

Mrs. Carroll: On the operating budget?

Senator John S. Barnes, Jr., D. 17: Yes, the school. I think we have that in the warrant, somehow there is wording in there. I don't have it here, I'm sorry, it's stupid of me, and I should have brought it out here.

Senator Chuck Morse, D. 22: Who's the attorney.

Senator John S. Barnes, Jr., D. 17: He's out of Salem.

Senator Chuck Morse, D. 22: There you go.

Senator Sylvia B. Larsen, D. 15: We're getting advise only on the bonds.

Senator John S. Barnes, Jr., D. 17: Point number two, that I think we have written in it. Point number two, the budget committee just doesn't do just budget chairs, it also does a lot of things out of the budget. For instance last night when there was a 6 to 3 vote, the budget committee in Raymond turned down the recommendation of the school board for the teacher's salary. How does that effect them?

Senator Robert Clegg, Jr., D. 14: I believe it's going to go to Deliberate Session and the 51 people are going to vote for the teacher's contract as the school board presented it, or they are going to agree with the budget committee. If it's going to go the voters on March 11, it's what the Deliberative Session in those 51 people decide from there.

Senator Sylvia B. Larsen, D. 15: But if it's part of a collective bargaining agreement then it would outside the 10%, am I right?

Senator Chuck Morse, D. 22: Yes.

Senator John S. Barnes, Jr., D. 17: We're not talking the 10%, then we are talking overriding of the budget committee.

Mrs. Carroll: Well, and that's what the legislative body has the ability to do, because of the way the form of government is structured, and the legislative body has the ability to approve or not approve costs items in a contract. So aside from it being outside the 10% rule, they have the authority to agree or disagree with what has been negotiated.

Senator John S. Barnes, Jr., D. 17: Thank you.

Chair, Senator Sheila Roberge, D. 9: Thank you very much.

Mrs. Carroll: Thank you very much.

Chair, Senator Sheila Roberge, D. 9: Is there anybody here who hasn't spoken that would like to speak? Anybody who has spoken before that would like to speak again? Okay thank you very much, we will close the hearing on Senate Bill 32.

The hearing on Senate Bill 32 was closed at 10:25 a.m.

Respectfully submitted,

Livia Acdan

Livia Acdan,
Senate Public Affairs Secretary

01/27/03

Attachment "*A*"

Hearing on Senate Bill 32
Before the Senate Public Affairs Committee
22 January 2003

My name is Howard Dilworth, Jr., and I am the Chairman of the Municipal Budget Committee for the Town of Hudson. I have been involved in municipal budgeting for 10 years which includes a term as a selectman.

I come here today in support of Senate Bill 32, as introduced by Senator Robert Clegg.

The Municipal Budget Act has existed in this state since 1935. It was completely recodified in 1993. While not always popular, I come here today to tell you that this part of municipal government works.

In addition to the RSA, my guiding principals concerning the Budget act are in two court cases concerning budget committees.

In 1963 in Hecker v McKernan, the NH Supreme Court said the budget committee's purpose is: *"to provide a committee with special knowledge to oversee and analyze the expenditures of the various town departments and districts. In this manner the electorate, which would ordinarily be without the detailed knowledge necessary to vote intelligently on certain budgetary problems, might be given sufficient information to determine the annual amounts necessary to properly manage town affairs."* ***Hecker v. MeKernan)*** 105 *NH* 195 (1963).

In a later case, the Supreme Court also noted the tendency of "*each department [to] attempt ..., to increase its budget to perform as well as possible*". The Court described the budget committee's role as that of "*an [a]rbiter ... given power by the legislature to reconcile these appropriation requests to maintain the tax load within manageable proportions.*"
That would be **Baker v. Hudson School District in 1970.** (110 NH 389 (1970)).

In the last several years, budget committees have come under increasing attack by some school boards which do not care to have their inflated financial concepts on education questioned.

These school boards have, with the use of legal council, attempted to split hairs and redefine the law. The result is that budget committees have found themselves in court defending their role, a position that already was decided long ago by the courts and the legislature.

The most recent of these attacks is a belief held by some that the budget committee's budget numbers are so irrelevant that they should not even be posted on the school meeting warrant. School board members claim that the voters are confused and that they do not get the full story or that budget committees don't understand education. All issues decided by the courts long ago. The new twist is that Senate Bill-2 is the fault of all of these problems. And yes, we just do not understand.

I would ask that you support this legislation. It will correct a "misunderstanding" by making it clear, that the recommended appropriations of the budget committee are the recommendations that are to be placed on the warrant for the operating budget warrant article.

RSA 32 has always given the legislative body the ability to override the budget committee's recommendation by an additional 10%. Placing the school board's recommended operating budget in the warrant defeats the ability of the school district meeting to fully exercise this 10% override.

RSA 32 has also always given communities the right to repeal the budget act and to have an advisory budget committee or no budget committee at all.

Please support this legislation. Please help me to do my job for the citizens who elected me by eliminating lawyer created confusion. Thank you, are there any questions?

Speakers

SENATE PUBLIC AFFAIRS COMMITTEE

Date: Time: 9:45 Public Hearing on 105-A **Bill #SB32**

relative to municipal budget recommendations.

Please check box(es) that apply.

SPEAKING	FAVOR	OPPOSED	NAME (Please print)	REPRESENTING
☐	☐	☐		
✓ ☒	☒	☐	Sen. Clegg	Dist 14 self
✓ ☑	☑	☐	MACEA CARROLL	N.H. MUNICIPAL ASSN
NOT SPEAKING ☒	☐	☐	STEVEN TELLIER	MANCHESTER, NH
✓ ☑	☑	☐	Chris Christensen	Hills 58, Co-sponsor
✓ ☑	☑	☐	Howard Dilworth Jr	Self
☐	☑	☐	Sen Robb Boyce	Dist 4
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: January 22, 2003

THE COMMITTEE ON Public Affairs

to which was referred Senate Bill 32

AN ACT relative to municipal budget recommendations.

VOTE: 4-0

Having considered the same, report the same without amendment and recommend that the bill: **OUGHT TO PASS.**

Senator John S. Barnes, Jr.
For the Committee

SB32 Docket

Next|Prev|Results List|Main|Bill Status

Bill Title: relative to municipal budget recommendations.

Date	Body	Description
1/9/2003	**S**	Introduced and Ref. to Public Affairs; SJ 2, Pg.24
1/14/2003	**S**	Hearing; January 22, 2003, Room 105-A, SH, 9:45 a.m.; SC3
1/24/2003	**S**	Committee Report; Ought to Pass, [01/30/03]; SC6, Pg.2
1/30/2003	**S**	Ought to Pass, MA, VV; OT3rdg; Passed by 3rd Reading Resolution; SJ 3, Pg.29
2/6/2003	**H**	Introduced and ref to Mun & Cnty Govt; HJ 14, p272
3/26/2003	**H**	Hearing Apr 1 1:30 RM301,LOB
4/13/2003	**H**	Maj Report OTP for May 15 (Vote 13-1;CC)
5/15/2003	**H**	Passed; HJ 42, p1314 + 1354
5/29/2003	**S**	Enrolled;
5/29/2003	**H**	Enrolled; HJ 45, p1447
6/6/2003	**S**	Signed by the Governor on 6/6/2003 Eff- 8/5/2003 Chap- 0095

Next|Prev|Results List|Main|Bill Status

Docket Abbreviations