

Senate Election Law and Municipal Affairs Committee

Jessica Bourque 271-2104

HB 200, relative to the procedure for overriding a local tax cap.

Hearing Date: April 22, 2025

Time Opened: 10:34 a.m.

Time Closed: 10:56 a.m.

Members of the Committee Present: Senators Gray, Lang, Rochefort, Perkins Kwoka and Long

Members of the Committee Absent: None

Bill Analysis: This bill requires a supermajority vote of the legislative body to override a local tax cap.

Sponsors:

Rep. Pauer

Rep. Berezny

Rep. Bryer

Rep. Nalevanko

Rep. Rollins

Rep. Spilsbury

Rep. Bailey

Rep. Burnham

Sen. Avard

Sen. Murphy

Sen. Sullivan

Who supports the bill: Rep. Diane Pauer, Eric Pauer

Who opposes the bill: Rep. Stephanie Grund, Rep. Timothy Horrigan, Rep. Tracy Bricchi, Barrett Christina, Brodie Deshaies, Jeanne Torpey, Betsey Neville, Brian Hawkins

Summary of testimony presented:

Representative Diane Pauer, Prime Sponsor, Hillsborough-District 36

- Currently, a political subdivision may vote to adopt a local tax cap, and a 3/5ths majority is required to do that, but only a simple vote is necessary to remove a tax cap.
- What that means is that a local tax cap is a starting point for what a budget committee may bring to the annual meeting for warrant articles with a tax impact.
- This modifies the vote threshold to override a local tax cap from a simple majority to a 3/5ths majority.
- Believes this makes sense because a 3/5ths majority adopts a tax cap, so this would make the override.

- A 3/5ths majority is required for bonds, multi-year lease agreements, and notes without an escape clause due to the future commitment for these expenses.
- A supermajority is required to override a school district's and a city's tax cap.
- This bill does not limit a legislative body from increasing or decreasing any single appropriation or the total amount of all appropriations.

Senator Long asked about emergency cases and said he believes 3/5ths might be difficult. For example, if the state passes something that affects a municipality, the municipality must act fast to enact it.

- Her understanding is that the body would petition the court in an emergency under the law currently.

Senator Lang asked about line 8, “but the question shall not be placed on the official ballot used to elect officers,” and asked for clarification.

- It refers to a traditional meeting where you aren’t putting the question on the official ballot.

Senator Lang said SB 2 towns already print the ballots on two different sheets of paper and asked if these would be at the bottom of the page or need to be printed on a separate sheet.

- In SB 2 towns, these warrant articles would be voted on using a separate ballot separate from a traditional meeting.

Senator Perkins Kwoka asked why it is necessary to essentially replace a town and municipality governing itself by removing the existing language: “The legislative body may override the cap by the usual procedures applicable to annual meetings and deliberative sessions of the legislative body.”

- This is changing the vote threshold with regard to a local tax cap.
- If a political subdivision adopts a local tax cap, only a simple majority is required to override it. That is no different than the vote threshold to do anything else.
- Many citizens are shocked at how a local tax cap works. This seeks to put teeth in a tax cap.

Senator Perkins Kwoka asked if there is anything in local procedure that prevents citizens who want to see a different procedure from doing this locally.

- NH statutes specify what the vote threshold is.
- This is different from a city charter.
- Under a city charter, she understands that a town can change that.

Senator Perkins Kwoka clarified that Rep. Pauer is saying that this does not apply to a city charter.

- Rep. Pauer said that is correct.

Representative Stephanie Grund, Hillsborough-District 34

- Traditionally, there is an enabling clause when the state enacts something like this. This doesn't have an enabling clause.
- The current law is enabling.
- It requires warrant articles to be placed in a specific order, which she considers a loss of local control.
- It is likely that the cap will be hit before the bond article is presented.

Senator Rochefort inquired about the last line of the House minority report and whether it claims that those who have appeared before this committee in support of this bill today are lying.

- Rep. Grund does not think they are lying, but in the House committee, she asked several times why "shall" was used and not "may" and did not receive an answer. After speaking with House Education Committee member, she discovered that another bill addresses the same issue this bill aims to address, but she was not informed of that when she asked her question and felt it was deceptive.

Brodie Deshaies, NH Municipal Association

- NHMA generally believes that the legislative body should be the body that decides appropriations in its community.
- NHMA also believes that a majority should be the threshold.
- Typically, when the state makes changes, an enabling clause allows the town to adopt the change. This doesn't have that clause, so it is a mandate.
- Believes that removing the language Senator Perkins referenced earlier is a mistake because NHMA believes this is taking power away from the local municipalities.
- If this bill moves forward, they believe there should be provisions for readoption to allow the voters to decide for themselves.

Senator Lang asked whether the ratios mentioned by the prime sponsor are appropriate, stating that if it takes 3/5ths to adopt a tax cap, then shouldn't it also take 3/5ths to remove it?

- NHMA believes that the majority should be the threshold for votes at a town meeting.
- Remember that the tax cap is only the maximum amount the body can present as total expenditures in its budget.

Eric Pauer, Brookline

- Speaking in favor of this bill.
- Tax caps are adopted by 3/5ths so it makes sense to override by 3/5ths.
- Did research throughout the U.S. and couldn't find any other examples where the override is a simple majority vote.
- Offered an answer to Senator Lang's question to the NH Municipal Association: The idea is that you do the normal procedures until you reach the tax cap, then after that, you go to a secret ballot anytime you want to override the tax cap because a moderator cannot judge 3/5ths.
- The Brookline school district has adopted the local tax cap, and people don't understand how a tax cap works, so that is where this bill comes from.
- SB 2 already has a secret ballot.
- If a town or school district doesn't like this, they can vote to rescind it.
- Only about 8 towns have adopted a local tax cap because it is tough to pass, but overriding it is easy, so many people question whether it is worth the effort.