**SB 438 - AS AMENDED BY THE HOUSE**

03/08/2018 0591s
2May2018... 1762h

2018 SESSION

18-2876
06/03

SENATE BILL ***438***

AN ACT relative to the postponement of local elections.

SPONSORS: Sen. Birdsell, Dist 19; Sen. Woodburn, Dist 1; Rep. Hoelzel, Rock. 3; Rep. B. Griffin, Hills. 6

COMMITTEE: Election Law and Internal Affairs

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AMENDED ANALYSIS

This bill provides for the postponement of local elections.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Eighteen*

AN ACT relative to the postponement of local elections.

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

1 New Subparagraph; State of Emergency Declaration; Powers; Town Elections. Amend RSA 4:45, III by inserting after subparagraph (f) the following new subparagraph:

(g) In consultation with the secretary of state and the director of homeland security and emergency management, to postpone all city or town elections if the entire state is subject to the declaration. Postponement of such elections shall be subject to the further provisions of RSA 669:1, V.

2 Town Elections; Date Subject to Postponement. Amend RSA 669:1, I to read as follows:

I. ***Subject to RSA 40:4,*** all towns shall hold an election annually for the election of town officers on the second Tuesday in March, except those towns which have adopted an alternative date under RSA 40:14 or those towns which have adopted the provisions of RSA 31:94-a and have, by majority vote at a previous town meeting, decided to elect officers on the second Tuesday in May.

3 New Paragraphs; Town Election Dates. Amend RSA 669:1 by inserting after paragraph IV the following new paragraphs:

V.(a) If the governor postpones any town elections as provided in RSA 4:45, III(g), the governor, secretary of state, and director of homeland security and emergency management shall cooperate and use their best efforts, using available emergency communications systems, to notify each affected town and the general public of the postponement. Notification to the town shall be to the town's emergency management director and, to the extent practical, to the moderator and the governing body.

(b) If the moderator postpones the town election as provided in RSA 40:4, the moderator shall promptly notify the secretary of state by telephone or electronic mail of the postponement.

VI. Postponed elections shall be subject to the following:

(a) Any election postponed under this section shall be rescheduled to the Tuesday 2 weeks later.

(b) All other statutory provisions associated with a postponed election under this section shall also be extended the same 2 weeks, except that supervisors of the checklist shall not be required to meet again until the postponed town election day. If the election is postponed to a date that follows the date of the business meeting, the end of the term of the moderator established in RSA 40:1 shall be extended through the completion of all election day duties or until the qualification of a successor, whichever is later. Any school district election coordinated with a town

under RSA 671:26-a or otherwise held in conjunction with the town election shall also be subject to the provisions of this section.

(c) The moderator and the emergency management director of each town where an election is postponed shall employ all reasonable means to provide voters with notice of the postponement, the date on which the postponed election shall be conducted, and information on obtaining absentee ballots for those voters who qualify to vote by absentee ballot at the postponed election. To the extent practical given the circumstances of the emergency, notice shall be posted at the location of the scheduled election, at the municipal offices, and on the website of each town, school district, and village district whose election is postponed.

(d) All ballots prepared for the original date of the election shall be used for the postponed election. A notice explaining the deadline for returning an absentee ballot shall be issued to voters who request and are sent an absentee ballot during the period between the original date and the postponed date of the election. All absentee ballots submitted to be counted on the date of the original election, all absentee ballots submitted for the original date of the election which arrive after that date, but before 5:00 p.m. on the date of the postponed election, and all absentee ballots submitted to be counted at the postponed election shall be submitted to the moderator to be counted. The absentee ballot of a voter who qualified to vote by absentee ballot because he or she expected to be absent or unable to appear at the polls on the original date of the election and who submitted an absentee ballot which otherwise satisfies the requirements for voting by absentee ballot, shall be counted even if the voter is present in the town or able to appear at the polls. To ensure voters who submitted an absentee ballot for the original election but are able to vote in person at the postponed election have the opportunity to vote in person, absentee voters shall not be marked on the checklist and their ballots deposited until after 1:00 p.m.

4 Duties of Moderator; Postponement of Town Meeting; Date for Rescheduled Meeting; Absentee Ballots. Amend RSA 40:4 to read as follows:

40:4 Duties.

I. The moderator shall preside in the town meetings, regulate the business thereof, decide questions of order, and make a public declaration of every vote passed, and may prescribe rules of proceeding; but such rules may be altered by the town.

II.***(a)*** In the event a weather emergency occurs on or before the date of [~~a~~] ***the*** deliberative session***, business session,*** or ***official ballot*** voting [~~day~~] ***session*** of a ***town*** meeting [~~in a town~~], which the moderator reasonably believes may cause the roads to be hazardous or unsafe, the moderator may, up to 2 hours***, but not more than 24 hours,*** prior to the scheduled session, postpone and reschedule the [~~deliberative~~] session [~~or voting day of the meeting~~] to [~~another reasonable~~] ***a*** date, place, and time certain ***as provided in subparagraph II(c). To the extent practical, prior to making a decision to postpone, the moderator shall consult with the governing body, the clerk, and as appropriate for the circumstances the police chief, the fire chief, and the local emergency management director. Postponement of the official***

***ballot voting session shall require the agreement of the emergency management director and the approval of the governing body.***

***(b) In the event an accident, natural disaster, or other emergency occurs which the moderator reasonably believes may render use of the meeting location unsafe or which destroys the ballots or makes them unusable, the moderator may, at any time prior to the scheduled session, postpone and reschedule the session to a date, place, and time certain, as provided in subparagraph II(c). To the extent practical, prior to making a decision to postpone the moderator shall consult with the governing body, the clerk, and as appropriate for the circumstances the police chief, the fire chief, and the local emergency management director. Postponement of the official ballot voting session shall require the agreement of the emergency management director and the approval of the governing body.***

***(c) The rescheduled date for an official ballot voting session shall be the second Tuesday following the date originally scheduled. The moderator shall reschedule the business session or deliberative session of a meeting to a reasonable date, place, and time certain, subject to subparagraph II(d). The moderator shall also promptly notify the secretary of state, by telephone or electronic mail, of the postponement. The moderator shall employ whatever means are available to inform citizens of the postponement and the rescheduled date or dates, as well as information on obtaining absentee ballots for the rescheduled dates. The rescheduling of school district elections in multi-town school districts shall be governed by RSA 671:22-a. The rescheduling of village district elections in multi-town village districts shall be governed by RSA 670:1-a.***

***(d)*** The date originally scheduled shall continue to be deemed the deliberative session***, business session,*** or ***official ballot*** voting [~~day~~] ***session*** of the meeting for purposes of satisfying statutory meeting date requirements; provided, that in towns or districts that have adopted RSA 40:13, the postponement shall not delay the deliberative session more than 72 hours. [~~The moderator shall employ whatever means are available to inform citizens of the postponement and the rescheduled deliberative session or voting day.~~]

***III. If the official ballot voting session is rescheduled as provided in paragraph II, the provisions of RSA 669:1, VI, relative to postponement of town elections, shall apply.***

***IV. For purposes of this section:***

***(a) "Business session" means, in a town that has not adopted the provisions of RSA 40:13, the session of a town meeting at which voters discuss, deliberate, and vote on matters other than the election of officers by official ballot and other questions that are placed on the official ballot.***

***(b) "Deliberative session" means the first session of a meeting in a town that has adopted the provisions of RSA 40:13.***

***(c) "Official ballot voting session" means the session of a town meeting at which voters vote on the election of officers and other matters by official ballot.***

5 City Elections; Postponement for Emergency. Amend RSA 44:11 to read as follows:

44:11 Times.

***I.*** The meeting of the voters of each ward for the election of city and ward officers shall be held on such day as may be fixed by law or by ordinance of the city council but in no event shall it be held in conjunction with a biennial election; and all ward and city officers who are chosen by the people shall hold their respective offices for the term and from the day fixed by law or ordinance, and until others are appointed in their stead. The prohibitions in this section shall not apply to a special election held to fill a vacancy for the office of a city or a ward officer.

***II. In the event of a weather or other emergency as described in RSA 40:4, II, the election may be postponed and rescheduled in the manner provided in that section for the rescheduling of a town meeting official ballot voting session, except that all references to the moderator shall be deemed to refer to the city clerk.***

6 New Section; Rescheduling of Village District Elections. Amend RSA 670 by inserting after section 1 the following new section:

670:1-a Rescheduling of Village District Elections. In the case of a village district that includes voters from 2 or more towns and holds its elections in conjunction with town elections, the town moderators in each town shall, in the event of an emergency described in RSA 40:4, II, use their best efforts to agree on rescheduling the town and village district elections. Unless the moderators from all towns in the village district agree to reschedule their elections, all town and village district elections shall proceed on the date originally scheduled.

7 New Section; School District Elections. Amend RSA 671 by inserting after section 22 the following new section:

671:22-a Rescheduling Elections. In the case of a school district that comprises one or more preexisting districts and holds its elections in conjunction with the town elections in the component towns as provided in this subdivision, the town moderators in each town shall, in the event of an emergency described in RSA 40:4, II, use their best efforts to agree on rescheduling the town and school district elections. Unless the moderators from all towns in the district agree to reschedule their elections, all town and school district elections shall proceed on the date originally scheduled.

8 Effective Date. This act shall take effect January 1, 2019.