

Amendment to SB 438

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

2
3 1 New Section; Change of Polling Place for Threat to Public Health or Safety. Amend RSA 669
4 by inserting after section 1 the following new sections:

5 669:1-a Change of Polling Place for Threat to Public Health or Safety.

6 I. Before the warning of the election, the location of a polling place may be changed by local
7 officials after the fire chief, police chief, or another public safety official with legal authority to do so
8 has closed the polling place or an area including the polling place due to an imminent serious threat
9 to public health or safety that makes conducting the election where it is scheduled impracticable,
10 subject to the following conditions:

11 (a) The moderator, or if the moderator is unavailable, the clerk, after consultation with
12 the municipal emergency management director, shall notify the secretary of state and attorney
13 general that there is an imminent serious threat to public health or safety that makes conducting
14 the election where traditionally scheduled impracticable and that a new polling place will be
15 selected for elections to occur on the date as posted.

16 (b) The selection of a new polling place shall be pursuant to RSA 658:9. The secretary
17 of state and the attorney general shall be informed of the change.

18 (c) The moderator or, in a city, the clerk, with assistance from the clerk, selectmen,
19 secretary of state, and other appropriate public officials shall employ all reasonable means to
20 provide voters with notice of the new polling place.

21 II. After the warning of the election, the location of a polling place may be changed if the
22 fire chief, police chief, or other public safety official with legal authority to do so has closed the
23 polling place or an area including the polling place due to an imminent serious threat to public
24 health or safety that makes conducting the election where it is scheduled impracticable, subject to
25 the following conditions:

26 (a) The moderator, or if the moderator is unavailable, the clerk, after consultation with
27 the municipal emergency management director, shall notify the secretary of state and attorney
28 general that an extreme event or an imminent serious threat to public health or safety makes
29 conducting the election where scheduled impracticable.

30 (b) The secretary of state, with the advice and approval of the attorney general, may
31 approve a plan for relocation of the polling place to another suitable facility in the town. The plan
32 shall address whether public transportation shall be provided from the original site to the relocated

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1 polling place. If the town has an approved continuity of operations plan as provided in RSA 669:1-b,
2 relocation shall be deemed approved and shall be governed by the continuity of operations plan.

3 (c) The moderator or, in a city, the clerk, with assistance from the clerk, selectmen,
4 secretary of state, and other appropriate public officials shall employ all reasonable means to
5 provide voters with notice of the new polling place.

6 (d) The governing body shall provide one or more staff throughout the hours when the
7 polls are open for voting at the site where the election was originally scheduled to occur, or as close
8 to that site as is safe, to inform voters arriving there to vote of the location of the new polling place.

9 III.(a) In the event of a fire or other disaster affecting a polling place after the warning of
10 the election on or immediately before election day that will prevent voters from reaching the polls,
11 or the destruction of ballots such that it is impossible to duplicate them for use on election day, or
12 an imminent serious threat to public health or safety that makes conducting the election when and
13 where it is scheduled impracticable, the moderator, or if the moderator is unavailable, the clerk,
14 after consultation with the municipal emergency management director, shall notify the secretary of
15 state and attorney general that ballots are unavailable or that an extreme event or an imminent
16 serious threat to public health or safety makes conducting the election when and where scheduled
17 impracticable.

18 (b) After a determination that no alternative polling place is available for the date
19 posted or that ballots cannot be provided, the secretary of state may approve continuation of the
20 election which shall occur as set forth in paragraph VI. If an approved continuity of operations plan
21 exists as provided in RSA 669:1-b, approval is presumed predicated on that plan's implementation.

22 (c) In the event that an election is postponed for fewer than all towns that are part of
23 the same cooperative school or village district or which otherwise will be voting by official ballot for
24 the same office or on a question where the outcome will be determined by the cumulative vote, in
25 accordance with Part II, Article 32 of the New Hampshire constitution, the ballots cast at polling
26 places where the election is not postponed shall be counted in public after the close of the polls on
27 election day and the results shall be publicly declared.

28 IV. No earlier than one day prior to each election held in the towns of the state, the
29 secretary of state and moderators shall review the national weather service reports. If severe
30 weather is likely to be present in the town on election day, the moderators, or the clerk if the
31 moderator is unavailable, shall determine a plan of action to ensure poll workers are able to arrive
32 at and access their assigned polling locations. If concerns about the impracticability of elections
33 arise the moderator, or the clerk if the moderator is unavailable, shall contact the secretary of state
34 to determine what if any conditions exist that warrant the postponement of elections as follows:

35 (a) The secretary of state may postpone a town election if he or she believes that an
36 emergency exists that will prevent voters from reaching the polls or where an imminent serious
37 threat to public health or safety makes conducting the election when and where it is scheduled

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1 impracticable, if either of the following occurs:

2 (1) The governor declares a state of emergency pursuant to RSA 4:45 that will be in
3 effect for the entire state on the date of the town election in a town that has adopted official ballot
4 voting for the election of officers, or;

5 (2) The secretary of state determines, after consultation with the state director of
6 homeland security and emergency management, other public safety and transportation officials, the
7 national weather service or other meteorologists, and such other officials as he or she deems
8 warranted, that a postponement is necessary on a statewide or regional basis.

9 (b) If the governor declares a state of emergency or the secretary of state determines
10 that postponement is necessary, a moderator may request a postponement not more than 24 hours
11 prior to the scheduled start of the election and before 4 p.m. the day before. If there is no response
12 from the secretary of state within 2 hours of the request, and the town has an approved continuity
13 of operations plan, postponement shall be deemed approved and shall be governed by the continuity
14 of operations plan. If no continuity of operations plan exists, the secretary of state shall respond
15 within 4 hours of the request.

16 (c) If the extreme event or threat to public health or safety for which the secretary of
17 state has granted a request for postponement or not responded pursuant to subparagraph (b),
18 extends to towns that hold their elections on the same day and that are part of the same cooperative
19 school or village district or which otherwise will be voting by official ballot for the same office or on
20 a question where the outcome will be determined by the cumulative vote, the election may be
21 postponed only if all moderators involved agree to postpone the election in each town. All
22 moderators shall consult with the municipal emergency management director and notify the
23 secretary of state and attorney general.

24 (d) Any postponement shall occur following the procedures set forth in paragraph VII.

25 V.(a) The moderator, or if the moderator is unavailable, the clerk, after consultation with
26 the municipal emergency management director, may notify the secretary of state and attorney
27 general that there is an imminent serious threat to public health or safety that makes conducting
28 the election where scheduled impracticable.

29 (b) The moderator or the clerk may request a postponement not more than 24 hours
30 prior to the scheduled start of the election and before 4 p.m. the day before. If there is no response
31 from the secretary of state within 2 hours of the request, and the town has an approved continuity
32 of operations plan, postponement shall be deemed approved and shall be governed by the continuity
33 of operations plan. If no continuity of operations plan exists, the secretary of state shall respond
34 within 4 hours of the request.

35 (c) If the extreme event or imminent serious threat to public health or safety extends to
36 towns that hold their elections on the same day and that are part of the same cooperative school or
37 village district or which otherwise will be voting by official ballot for the same office or on a question

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1 where the outcome will be determined by the cumulative vote, the election may be postponed only if
2 all moderators involved agree to postpone the election in each town. All moderators shall consult
3 with the municipal emergency management director and notify the secretary of state and attorney
4 general.

5 VI.(a) In the event of a fire or other disaster on election day that creates an imminent
6 serious threat to public health or safety that makes conducting the election when and where it is
7 scheduled impracticable, the moderator or if the moderator is unavailable, the clerk, after
8 consultation with the municipal emergency management director, shall notify the secretary of state
9 and attorney general that an extreme event or an imminent serious threat to public health or safety
10 makes conducting the election as scheduled impracticable.

11 (b) The secretary of state, with the advice and approval of the attorney general may
12 approve a plan for relocation of the polling place to another suitable facility in the town. The plan
13 shall address whether public transportation shall be provided from the original site to the relocated
14 polling place. If the town has an approved continuity of operations plan as provided in RSA 669:1-b,
15 relocation shall be deemed approved and shall be governed by the continuity of operations plan.

16 (c) The moderator or, in a city, the clerk, with assistance from the clerk, selectmen,
17 secretary of state, and other appropriate public officials shall employ all reasonable means to
18 provide voters with notice of closing of the polling place.

19 (d) The governing body shall provide one or more staff throughout the hours when the
20 polls were to be opened for voting at the site where the election was originally scheduled to occur, or
21 as close to that site as is safe, to inform voters arriving there of the relocation.

22 (e) If evacuation of the polling place is necessary, and provided it is possible to do so
23 safely, the moderator shall, in the presence of at least one witness, secure all ballots which have
24 been cast and which have been prepared for use at the polling place but not yet used, and the
25 checklist in use at the polling place. If removed from the polling place, the ballots and checklist
26 shall be maintained in the custody of at least 2 witnesses at all times and shall be kept secured in
27 the presence of such witnesses until the attorney general or a court approves a plan for reconvening
28 and continuing the election or postponing and conducting a new election.

29 (f) In the event that an election is postponed for fewer than all towns that are part of
30 the same cooperative school or village district or which otherwise will be voting by official ballot for
31 the same office or on a question where the outcome will be determined by the cumulative vote, in
32 accordance with Part II, Article 32 of the New Hampshire constitution, the ballots cast at polling
33 places where the election is not postponed shall be counted in public after the close of the polls on
34 election day and the results shall be publicly declared.

35 (g) Any postponement shall be pursuant to paragraph III. If a town has an approved
36 continuity of operations plan as provided in RSA 669:1-b, continuation or postponement shall be
37 deemed approved and shall be governed by the continuity of operations plan.

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VII. Postponed or relocated elections shall be subject to the following:

(a) Any election postponed under this section shall be rescheduled to the Tuesday 2 weeks after the originally scheduled date of the election.

(b) All other statutory provisions associated with a postponed election under this section shall also apply during the period of postponement under subparagraph (a), 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 or village 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 secretary of state and the moderator of each town where an election is postponed or continued 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 or village 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 or continued election. If ballots were destroyed such that new ballots are to be produced they shall be duplicates of the original ballots and shall reflect the original date of the 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 or continued 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.

669:1-b Continuity of Operations Plan (COOP).

I. The moderator and municipal emergency management director of each political subdivision shall develop a plan for postponing an election in the municipality. The "continuity of

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operations plan" (COOP), shall comply with the other provisions of this section. In all circumstances where an election is postponed, the COOP shall be utilized to assist in carrying out the postponement. Prior to adoption of COOP provisions related to elections, the plan shall be submitted to the secretary of state and attorney general for review. The secretary of state and the attorney general shall have 30 days to approve the plan or to identify changes required by law or recommended by their offices. The secretary of state, in consultation with the attorney general and the director of homeland security and emergency management, shall publish model COOP provisions related to elections.

II. The COOP shall include provisions relating to the polling facility, security of election materials and equipment, and contact information for all necessary personnel. The COOP shall also include the procedure for building safety alarm activation, transport and storage of voting machines and ballots, identification of alternative polling locations, contact procedure for poll workers, contact information by position and phone number for local police, fire, and emergency management director, suppliers for utility and power supplies to all polling locations, facility manager for all polling locations, the supply of emergency provision for each polling location, and evacuation procedures. This list may be updated and modified by the secretary of state or the political subdivision.

2 Local Elections; Times. Amend RSA 44:11 to read as follows:

44:11 Times. ~~[The meeting of the voters of each ward for the election of]~~ ***Elections for choosing*** 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. ***A city election may be postponed in the same manner as provided for a town election in RSA 669:1-a, except that all references to the moderator shall also apply to the city clerk.***

3 Duties; Weather Emergency. Amend RSA 40:4, II to read as follows:

II. In the event a weather emergency occurs on or before the date of [a] ~~the~~ ***deliberative session, business session, or [voting day] session for an election of town officers by unofficial ballot pursuant to RSA 669:11,*** 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 date, place, and time certain. The date originally scheduled shall continue to be deemed the ***date of the*** ~~[deliberative]~~ session ~~[or voting day 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

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1 session more than 72 hours. The moderator shall employ whatever means are available to inform
2 citizens of the postponement and the rescheduled [deliberative] session [~~or voting day~~].

3 4 Effective Date. This act shall take effect 60 days after its passage.

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2018-1731h

AMENDED ANALYSIS

This bill establishes procedures for the postponement of local elections.