

## CHAPTER 669

### Town Elections

#### General Provisions

**669:1 Election Dates.** I. 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.

II. Notwithstanding the provisions of paragraph I of this section, any town which has adopted a municipal charter under the provisions of RSA 49-B:1-6 may establish the second Tuesday in March, the second Tuesday in May, or the first Tuesday after the first Monday in November in odd-numbered years as the date for the election of town officers.

III. No town election shall be held in conjunction with the biennial election.

IV. Any local political subdivision which has not adopted RSA 40:13, the official ballot referendum form of meeting, but whose voting checklist comprises all or part of the checklist for a school district which has adopted an April or May election date under RSA 40:14, may, by vote of the legislative body, vote to coordinate its elections with the school district's elections and to hold its elections on the same April or May date as the school district. Such local political subdivision may, in addition, vote to hold the second session of its annual meeting, for transacting all business not required to be voted on by official ballot, within 2 weeks of the election date at a time and date determined by the governing body. The joint elections shall be held at a time and place determined by, and shall be supervised by, the election officials of the local political subdivision, coordinated as set forth in RSA 671:25 and RSA 671:26, with costs allocated in the same manner as in previous years or as may be mutually agreed upon by the governing bodies. A vote under this paragraph may be rescinded by the local political subdivision in like manner. No vote under this section shall take effect until the annual election next following such vote.

**669:2 Warrant.** The selectmen shall include as part of the warrant for the annual town meeting a warrant for each annual town election which shall prescribe the place, day and hour of the election, the officers to be elected, and the questions to be submitted to the voters. In a town which has adopted an official ballot system for the election of town officers, the warrant shall specify the time the polls are to open and the hour before which the polls may not close. The warrant shall clearly specify which items shall be voted on by ballot at the town election and which items shall be considered at the town business meeting. In a town which has not adopted an official ballot system, it shall be sufficient for a town meeting warrant to list items to be taken up at the town business meeting, including the election of town officers.

**669:3 Town Meeting Provisions Applicable.** All appropriate provisions of RSA 39 relative to warning the town meeting and posting the town meeting warrant shall apply to the town election.

**669:4 Qualifications of Voters.** Any person having his or her domicile within the town and qualified to vote under RSA 654:1 through 654:6 and who is on the town checklist shall be qualified to vote in town elections.

**669:5 Voters and Checklists.** An updated checklist shall be used at all town meetings and elections for the same purposes a checklist is used at a state election and to insure that only qualified voters participate in town meeting discussions and votes, by voice or otherwise. The supervisors shall prepare, post and revise the checklist for a town meeting or election in the same manner as for a state election as provided in RSA 654:25-654:31, provided, however, that the session for correction shall be held on Saturday 6 to 13 days prior to the election. The supervisors shall also hold one session for correction of the checklist on the day immediately prior to the first day of the filing period for candidates for town office, as provided in RSA 669:19 or 669:42, as applicable, from 7:00 p.m. to 7:30 p.m. and at the discretion of the supervisors for extended hours.

**669:6 Qualification of Officers.** Unless otherwise provided by law, no person shall hold an elective town office who does not have his domicile within the town.

**669:7 Incompatibility of Offices.** I. No person shall at the same time hold any 2 of the following offices: selectman, treasurer, moderator, trustee of trust funds, collector of taxes, auditor and highway agent. No person shall at the same time hold any 2 of the following offices: town treasurer, moderator, trustee of trust funds, selectman and head of the town's police department on full-time duty. No person shall at the same time hold the offices of town treasurer and town clerk. No full-time town employee shall at the same time hold the office of selectman. No official handling funds of a town shall at the same time hold the office of auditor. No selectman, moderator, town clerk, or inspector of elections shall at the same time serve as a supervisor of the checklist. No selectman, town manager, school board member except a cooperative school board member, full-time town, village district, school district except a cooperative school district, or other associated agency employee or village district commissioner shall at the same time serve as a budget committee member-at-large under RSA 32.

I-a. No person shall at the same time file a declaration of candidacy for any 2 or more elected offices that are incompatible under paragraph I.

II. The provisions of paragraph I refer to the actual holding of office, and are not to be construed to prevent the transfer between offices of information obtained in the regular conduct of business nor to prevent the personnel in any office from furnishing clerical assistance to any other office.

**669:8 Incompatibility of Offices: Town Manager.** The town manager, during the time that he or she holds such appointment, may be manager of a district or precinct located wholly or mainly within the same town and may be elected or appointed to any municipal office in such town or included district or precinct that would be subject to his or her supervision if occupied by another incumbent; but he or she shall hold no other elected or appointed public office of the town except justice of the peace or notary public except as provided in RSA 37:9 and RSA 37:16.

**669:9 Oaths of Town Officers.** All town officers elected as provided in this chapter shall take an oath of office as provided in RSA 42 before qualifying for office.

**669:10 Term of Office.** I. Except as otherwise provided, the term of office of any officer elected under this chapter shall begin upon his election and qualification for office and shall end upon the election and qualification of his successor.

II. No person shall assume a town office until after the time period for requesting a recount is over. If a recount is requested for a town office, no person shall assume that office until the recount is completed.

### **Ballot Systems**

**669:11 Unofficial Ballot System.** If a town has not voted at a previous town meeting to adopt an official ballot system as provided in RSA 669:12 or 669:13 or if a town has voted to rescind such adoption, such town shall elect its officers by means of the unofficial ballot system as provided in RSA 669:54 - 669:60. A majority vote shall be required to elect using unofficial ballots.

**669:12 Partisan Official Ballot System.** Any town may vote to adopt the partisan official ballot system for election of town officers under an article in the warrant for any town meeting, and may rescind such action in like manner. The partisan ballot system shall not be in effect until the town election first following the town meeting at which such system is adopted. A plurality shall elect in towns using the partisan ballot system.

**669:13 Non-Partisan Official Ballot System.** A town may vote to adopt the non-partisan official ballot system for election of town officers under an article in the warrant for any town meeting, and may rescind such action in like manner. In any town in which the partisan ballot system is in effect, and which has a population, according to most recent federal census, of 4,500 or more, adoption of the non-partisan ballot system shall be by ballot. Whenever in such town there shall appear in the warrant for any town meeting an article relating to the adoption of the non-partisan ballot system, the town clerk shall cause to be printed on the official ballot, if any, otherwise upon a ballot specially prepared for the purpose, the question, "Shall the non-partisan ballot system for the election of town officers be adopted by this town?", which question shall be followed by boxes in which the voter may indicate "Yes" or "No". If the majority of the qualified voters present and voting at such meeting shall answer said question in the affirmative, the non-partisan ballot system

shall be deemed to have been adopted by said town. In all towns, the non-partisan ballot system shall not be in effect until the town election first following the meeting at which such system is adopted. A plurality shall elect in towns using the non-partisan ballot system.

### **Officers Elected**

**669:14 Use of Ballot.** Town officers who are to be elected by ballot as provided in RSA 669:15 and all other officers that a town has voted at some previous meeting to elect by ballot shall be elected by means of the partisan or non-partisan official ballot systems if such an official ballot system shall be in effect in a town. In towns where no such official ballot system is in effect, town officers who are to be elected by ballot as provided in RSA 669:15 and such other officers as the town votes to elect by ballot shall be elected by unofficial ballot at the town business meeting pursuant to RSA 669:54 - 669:60.

**669:15 Officers Who Shall Be Elected; Election by Ballot.** The town officers specified in this section shall be elected at a town election by the voters of the town, and the election of such officers shall be by ballot as specified by the RSA section indicated:

- I. Selectmen (RSA 41:8 through 8-e).
- II. Moderator (RSA 40:1).
- III. Supervisors of the checklist (RSA 41:46-a).
- IV. Town Clerk (RSA 41:16 through 16-b).

V. Town Treasurer (RSA 41:26 through 26-b), unless provision has been made for appointment pursuant to RSA 41:26-e.

VI. Highway agents, unless provision has been made for their appointment (RSA 231: 62 through 62-b).

**669:16 Optional Officers to be Elected by Ballot; Interim Officers.** The town offices specified in this section shall, if established by a town, be filled by an election by ballot. Such an officer may not be elected by official ballot until the annual town election first following the establishment of the office. However, whenever a town votes to establish such an optional office, the town may also then vote to elect by unofficial ballot at the same meeting an officer to serve until the next annual town election. If a town then fails to elect such an officer by unofficial ballot, the office shall be deemed vacant and shall be filled as provided in RSA 669:61 - 669:75. This section applies to the following offices:

- I. Town clerk-tax collector (RSA 41:45-a).
- II. Constables or police officers for full-time duty (RSA 41:47).
- III. Trustees of trust fund (RSA 31:19-23).
- IV. Sewer commissioners (RSA 149-I).
- V. Tax collector for a 3-year term (RSA 41:2-a or 2-b).
- VI. Town auditors (RSA 41:32-a).
- VII. Library trustees (RSA 202-A:6).

**669:17 Officers Who May be Elected: Election by Ballot or Other Means.** The town officers specified in this section may be elected by ballot or by other means at annual town elections or meetings by the voters of the town as determined by said voters. Such an officer may not be elected by official ballot until the annual town election first following the establishment of the office. When a town votes to establish such an optional office, the town may also then vote to elect by any means at the same meeting an officer to serve until the next annual town election or meeting or may vote to authorize the officer with the power to fill a vacancy in the office as provided in RSA 669:61 - 669:75 to appoint someone until the next annual town election or meeting. This section applies to the following offices:

- I. Town assessors (RSA 41:2-c through 2-i).
- II. Repealed by Chapter 164, Laws of 1983.
- III. Overseers of public welfare (RSA 41:2).
- IV. Constables or police officers, other than those elected under RSA 41:47 (RSA 41:2).
- V. Elected planning board members (RSA 673:2).

- V-a. Elected zoning board of adjustment members (RSA 673:3).
- VI. Elected budget committee members (RSA 32:2)
- VII. Tax collector for a 1-year term (RSA 41:2).
- VIII. Fire chief or firewards for a term of one or more years, as determined by the local legislative body under RSA 154:1 through RSA 154:1-c.
- IX. Any other officers the town may judge necessary for managing its affairs under RSA 41:2.

**669:17-a Filing Candidacy.** No person shall file as a candidate for a town officer under the provisions of RSA 669:19 or RSA 669:42 for more than one seat on the same town or school district board, commission, committee, or council.

**669:17-b Discontinuing Optional Elected Office.** When a town votes to discontinue any optional elected office, whether or not such office is to be succeeded by an appointed office, the person holding the elected office at the time of the vote to discontinue it shall continue to hold office until the annual town election first following the discontinuance of the office, at which time the elected office shall terminate irrespective of the length of that officer's term. This section shall apply to the elective offices of tax collector, highway agent, constable or police officer, overseer of public welfare, auditor, and any other optional town elected office not governed by another statute.

**669:17-c Candidate Notification to Selectmen.** Any person who has been removed from any position in the state which requires bonding and who subsequently becomes a candidate for any elected office that requires bonding under RSA 41:6, shall inform the governing body in that town of all facts relevant to the removal from office no later than the last day of the filing period for candidates. The board of selectmen shall then inform the town's bonding agent who shall determine the candidate's ability to be bonded under RSA 41:6.

**669:17-d Discontinuing Office of Elected Treasurer.** When a town votes to discontinue an elected treasurer office, the person holding the elected office of treasurer at the time of the vote to discontinue it shall continue to hold office until the annual town election first following the discontinuance of the office, at which time the elected office of treasurer shall terminate irrespective of the length of that officer's term.

### **By Official Ballot**

**669:18 Nominations: Partisan Ballot System.** In a town which has adopted the partisan ballot system as provided in RSA 669:12, nominations shall be made by caucus as provided in RSA 669:37 - 669:53.

**669:19 Nominations: Non-Partisan Ballot System.** In a town which has adopted the non-partisan ballot system as provided in RSA 669:13, all candidates shall file a declaration of candidacy with the town clerk during the filing period for town candidates. All candidates who file on the last day of the filing period shall do so in person before the town clerk. The filing period shall begin on the seventh Wednesday and end on the Friday of the following week before the town election. Such declaration of candidacy shall be prepared by the town clerk in substantially the following form: I, \_\_\_\_\_, declare that I am domiciled in the town of \_\_\_\_\_, and that I am a registered voter therein; that I am a candidate for the office of \_\_\_\_\_ and hereby request that my name be printed on the official non-partisan ballot of the town of \_\_\_\_\_.

**669:20 Nomination Petitions.** Repealed by Chapter 148, Laws of 2008. Effective August 5, 2008

**669:21 Number of Petitions.** Repealed by Chapter 148, Laws of 2008. Effective August 5, 2008

**669:22 Withdrawal.** Where a candidate had duly filed according to RSA 669:19 for a non-partisan town election or where a party nominee has been certified to the clerk as provided in RSA 669:50 for a partisan town election, no withdrawal or declination of a candidate shall be accepted by the town clerk subsequent to the last dates for filing except if the candidate dies or shall make oath that he does not qualify for the public office for which he or she is filed because of age, domicile, or incapacitating physical disability acquired subsequent to his or her filing. If a candidate dies or withdraws as provided in this section, the town clerk shall not print the name of that candidate on the ballot. If the ballots have been printed, the clerk shall remove that name using pasters.

**669:23 Preparation of Voting Materials.** The town clerk shall prepare the official ballots for the town and shall arrange the names of candidates upon said ballots in parallel columns. Immediately above the names of each block of candidates shall be printed the title of the office for which they are candidates, such as "For Selectman". Below the title of each office shall be printed in small but easily legible type the words "Vote for not more than (here insert a number designating how many persons are to be voted for)". Directly to the right of the name of each candidate there shall be a square. Whenever there are 2 or more candidates for the same office the names shall be printed upon the ballot in the alphabetical order of their surnames according to the alphabetization procedure established in RSA 656:5-a. Following the names printed on the ballot under the title of each office, there shall be as many blank lines as there are persons to be elected to that office.

**669:24 Paper, Uniformity, Endorsement.** The ballots shall be printed on plain white paper, in weight not less than that of ordinary printing paper; provided, however, that if more than one ballot is used during any town election, each ballot shall be of a different color than any other ballot used at the election. There shall be no impression or mark to distinguish one ballot from another. The names of all candidates shall be printed in uniform type and the ballots shall be folded so that their width and length when folded shall be uniform. On the back, or at the top of the face, of each ballot shall be printed the words "Official Ballot for the Town of \_\_\_\_\_," the date of the election, and a facsimile of the signature of the town clerk who prepared the ballot. For ballots transmitted electronically, the words "Official Ballot for the Town of \_\_\_\_\_" shall be located at the top of the face of the ballot.

**669:25 Conduct.** In towns which have adopted an official ballot system, the town election shall be conducted in the same manner as a state general election as provided in RSA 658 and 659, except that RSA 659:77, III-V and 659:78 shall not apply, and except that all duties required to be performed by the secretary of state under those chapters shall be performed by the town clerk, and except that no copy of marked or unmarked checklists need be forwarded to the state archives or federal district court as provided in RSA 659:102. Polling hours for a town meeting or election shall be set by the selectmen or by a vote of the town.

**669:26 Absentee Voting.** I. Every town which has adopted an official ballot system for town elections as provided in RSA 669:12 or 669:13 shall provide for absentee voting. Any eligible voter who is absent from such a town on the day of a town election, or who cannot appear in public on election day because of his or her observance of a religious commitment, or who, by reason of physical disability, is unable to vote in person may vote at a town election in accordance with the provisions of this section and RSA 669:27-669:29. A person who is unable to appear at any time during polling hours at his or her polling place because of an employment obligation shall be considered absent for purposes of this section and RSA 669:27-669:29. For the purposes of this section, the term "employment" shall include the care of children and infirm adults, with or without compensation.

II. When the National Weather Service has issued a winter storm warning, blizzard warning, or ice storm warning for election day applicable to the town:

- (a) A person who is elderly or infirm or who has a physical disability, who otherwise would have voted in person but has concerns for his or her safety traveling in the storm, shall be considered absent for purposes of this section and RSA 669:27-669:29 and may vote absentee on the Monday immediately prior to the election.
- (b) A person who cares for children or infirm adults who reasonably anticipates that school, child care, or adult care will be canceled, who otherwise would have voted in person but will be deterred from voting by the need to care for children or infirm adults, shall be considered absent for purposes of this section and RSA 669:27-669:29 and may vote absentee on the Monday immediately prior to the election.
- (c) As required by RSA 652:20, the clerk's office shall be open to receive applications for absentee ballots, to provide voters the opportunity to complete absentee ballots, and to receive returned ballots on the Monday immediately prior to an election at a minimum from 3:00 p.m. to 5:00 p.m. The clerk may designate a deputy clerk or assistant to provide this service, provided the individual has taken the oath of office and has been trained in the requirements for using an absentee ballot and the procedure for issuing and receiving absentee ballots.

**669:27 Forms.** Prior to each such election, the clerk shall prepare in such quantities as he may deem necessary the following forms:

I. Official absent voting ballots, with the words "absentee ballot" printed on them, similar in form to the official ballot to be used at said election, and similarly endorsed and printed on paper of the same color as that used for official ballots;

II. Blank forms of application for absentee ballots worded similar in form to those required by RSA 657:4.

III. Envelopes of sufficient size to contain the ballots specified in paragraph I, on which shall be printed an affidavit similar in form to that required by RSA 657:7 or 657:8, as applicable.

**669:28 Instructions; Information.** The secretary of state shall prepare for the use of the clerks such printed information and instructions, subject to the approval of the attorney general, as he shall deem appropriate to carry into effect the purposes hereof. The secretary of state shall furnish such material to the clerks of all towns, cities, village districts and school districts.

**669:29 Application of Statutes.** The procedure for absentee voting in town elections shall be the same as in state elections as provided in RSA 657:2, 657:6, 657:7, 657:8, 657:12, and 657:14 through 657:24. With respect to the provisions of RSA 657:19, absentee ballots shall not be required to be sent to absent uniformed services voters or absent voters temporarily residing outside the United States at least 45 days prior to town elections, but shall be sent by the clerk as long before election day as is practical.

### Recounts

**669:30 Recounts; Application.** Any person for whom a vote was cast and recorded for any office at a town election may, no later than the Friday following the election, apply in writing to the town clerk for a recount of the ballots cast for such office, the clerk shall appoint a time for the recount not earlier than 5 days nor later than 10 days after the receipt of said application.

**669:31 Notice; Fee.** I. The clerk shall notify each of the candidates for the office for which there is to be a recount at least 3 days prior to the day appointed for the recount of ballots. No other notice shall be required.

II. The applicant shall pay to the town clerk, for the use of the town, the following fee:

(a) If the difference between the vote cast for the applying candidate and a candidate declared elected is less than one percent of the total votes cast, the fee shall be \$10.

(b) If the difference between the vote cast for the applying candidate and a candidate declared elected is between one percent and 2 percent of the total votes cast, the fee shall be \$20.

(c) If the difference between the vote cast for the applying candidate and a candidate declared elected is between 2 percent and 3 percent of the total votes cast, the fee shall be \$40.

(d) If the difference between the vote cast for the applying candidate and a candidate declared elected is greater than 3 percent of the total votes cast, the candidate shall pay the fee as provided in RSA 669:31, II(c) and shall agree in writing with the town clerk to pay any additional cost of the recount.

III. If any person who has applied for a recount is declared elected by reason of the recount, the town clerk shall return to the person within 10 days of the recount all fees paid at the time of applying.

IV. If any person who has applied for a recount loses the recount by a margin of less than one percent of the total votes cast, the town clerk shall return to the person within 10 days of the recount any fees that were paid in excess of those required by subparagraph II(a).

**669:32 Board of Recount.** At the time and place so appointed and notified, the clerk shall publicly break the seal of and open the package in which the ballots of said election are kept; and, thereupon, said ballots shall be recounted by the clerk, the moderator, and the selectmen of said town who shall constitute the board of recount. When counting the ballots, the board of recount or their assistants shall visually inspect each ballot. No mechanical, optical, or electronic device shall be used for the counting of ballots. Any member of the board of recount who is one of the candidates for the office being recounted shall disqualify himself or herself from the board of recount for all official duties of said board. The moderator shall appoint an assistant who shall take the same oath as, serve in the same capacity as, and have all the powers of the recount official whom he or she has replaced.

**669:33 Preservation of Ballots after Recount.** I. Upon the conclusion of the recount, the clerk shall place the ballots and all envelopes or wrappers which had previously contained them in a suitable container showing the contents and the date when and the reason why it was opened; and said clerk shall retain said ballots until the expiration of 60 days

from the date of the meeting unless some action is pending which makes their further preservation necessary or unless enjoined by action brought before the superior court.

II. Ballots, including cast, cancelled, and uncast ballots and successfully challenged absentee ballots still contained in their envelopes, prepared or preserved in accordance with the election laws shall be exempt from the provisions of RSA 91-A. This exemption shall apply to any ballots or absentee voter affidavit envelopes prepared for or used in any election conducted by the state or any political subdivision, including federal elections.

**669:34 Declaration of Results.** I. Upon completion of the recount, the board of recount shall publicly declare the results and certify such declaration to the town clerk.

II. The town clerk shall record the certificate received under paragraph I; and the person so declared to have been elected shall, unless the result is changed upon appeal to the superior court, be the duly elected officer of such town.

III. A person declared elected at the election whose election is affirmed by the recount may take the oath of office and assume office at any time following declaration of the results of the recount, provided the oath is taken by the deadline established by RSA 42:6.

IV. When a different person is declared elected following the recount, if no appeal is taken that person may take the oath of office and assume office on the sixth day following the date of the recount, provided that the oath is taken by the deadline established by RSA 42:6.

V. If a different person is declared elected following the recount, and an appeal is taken, that person may not assume office until the superior court has issued a final ruling on the appeal. The person holding the office prior to the election shall continue to hold the office until a successor is declared elected by the superior court and the person declared elected by the court takes the oath of office.

VI. When an appeal involves a multi-seat office, every declared candidate for that office and any write-in candidate who received 5 percent or more of the votes cast shall be entitled to notice of the appeal and may choose to become a party to the appeal. When ruling on an appeal involving an election where voters elected more than one person to a multi-seat office, the court may remove from office any person who was declared elected at the election and at the recount who has already taken the oath of office and assumed office if the court determines that it is more likely than not that a different person was elected to that seat. The validity of any actions taken by a person who assumes office pursuant to this section and is later removed as a result of an appeal may not be challenged on the basis that the person was subsequently removed as a result of the appeal.

**669:35 Appeal from Recount.** Any person aggrieved by a ruling of the board of recount with respect to any ballot may, within 5 days thereafter, appeal to the superior court for the county in which such town is located; and such court shall have jurisdiction in equity to hear and determine the question presented. The person shall also file a copy of the appeal with the town clerk by 5:00 p.m. on the fifth day following the date of the recount.

### **Tie Vote**

**669:36 Tie Vote.** In case of a tie vote at any town election, except as provided for unofficial ballots in RSA 669:60, the winner shall be determined by lot by the town clerk in the presence of the candidates who are tied if, upon notice from him, they elect to be present.

### **Special Provisions for Partisan Ballot System**

**669:37 Nomination by Caucus.** In a town which has adopted the partisan ballot system under RSA 669:12, nominations may be made by any caucus of legal voters representing a political party which at the state election next preceding polled at least 3 percent of the entire vote cast in the state for the office of governor.

**669:38 Party Regulations.** Any party qualified to hold a caucus may, in convention or by its recognized political committee, make regulations concerning the manner of holding the caucus consistent with the provision of this subdivision.

**669:39 When Held.** Any caucus for the nomination of candidates for town officers shall be held not later than the sixth Friday before the town election at which such officers are to be elected.

**669:40 Notice.** All town caucuses shall be called by a notice posted in 4 conspicuous places in the town and published in some newspaper, if there be any published in the town, 10 days or more before the day of the caucus. Such notice shall specify the place, day and hour of meeting, and the time during which the polls shall be open for the reception of ballots.

**669:41 Checklists.** The checklist for use at any caucus shall be prepared by the local executive committee of the party holding the caucus. Notice of the times when, and places where, the executive committee shall meet for the purpose of receiving evidence and suggestions as to the make-up of the checklist shall be included in the notice of the caucus.

**669:42 Filing.** A candidate for nomination for office shall file his name, and a declaration of the office for which he is filing, with the clerk of the political party holding the caucus at least 5 days before the date of the caucus. The clerk shall prepare the ballots to be used for said caucus and no other ballots shall be used at said caucus.

**669:43 Ballots.** Voting at the caucus shall be by ballot. The committee shall have full power to regulate the form, size and character of the ballots to be used.

**669:44 Additional Polling Place.** Any caucus held under the provisions of this subdivision in a town which has voted to adopt the provisions for an additional polling place may be held at the central polling place in said town and also at said additional polling place. The local executive committee of the party holding the caucus shall prepare a checklist for each polling place. The polls at the additional polling place shall close one hour prior to the closing of polls at the central polling place and the ballot boxes from the additional polling place shall be taken to the central polling place where they shall be opened and counted.

**669:45 Hours of Polling.** The time the polls shall be open at caucuses shall be fixed by the executive committee of the party in the town holding the caucus. In towns and wards having not more than 2,000 inhabitants, according to the last preceding national census, the polls shall be open not less than 2 hours, and, in those having more than 2,000 inhabitants according to such census, not less than 3 hours.

**669:46 Additions.** No name shall be placed on the checklist after the hour for opening the caucus has arrived except the name of a person whose right to vote in the caucus is well known to the executive committee.

**669:47 Challenge.** When the right of any person to vote in a caucus is challenged, he shall subscribe to the following oath or affirmation before his vote shall be received: I, \_\_\_\_\_, do solemnly swear (or affirm) that I am a legal voter in \_\_\_\_\_, and that I intend to vote the ticket of the party holding this caucus at the next election.

**669:48 Prohibited Acts.** No person shall vote in any caucus unless his name is on the checklist used by said caucus except as provided in RSA 669:46. No person shall vote using the name of any other person; and no person shall vote in the caucus of more than one political party, or, having voted in the caucus of a political party, sign the nomination papers of any other political party for that election. No person shall vote in any caucus unless he intends to support the ticket of the party holding the caucus at the next election.

**669:49 Plurality; Certificates of Nomination.** A plurality of votes shall be sufficient to nominate a candidate for town office by caucus. After the caucus, certificates of nomination shall be made and shall indicate the name and domicile of each candidate, the office for which he is nominated and the political principles or party he represents, and shall be signed by the chairman and clerk of the caucus or convention; and, when practicable, such certificates of nomination shall be signed by each candidate; but the absence of the signature of the candidate shall not invalidate a certificate of nomination.

**669:50 Filing Nominations; Certificate of Regularity.** In filing nominations with the town clerk, the presiding officer of the caucus shall certify that the caucus was called and conducted according to the provisions of this subdivision. If nominations are not accompanied by such certificate, they shall not be placed upon the official ballot.

**669:51 Filing Checklists.** Within 48 hours after the close of any caucus, the presiding officer shall file with the town clerk the checklist used in the caucus; and the clerk shall keep the same for 60 days thereafter, in his office, open to

the inspection of every citizen of such town, and shall not make nor permit to be made upon such checklist any mark whatever.

**669:52 Nomination by Nomination Papers.** As an alternative to nomination by party caucus, a candidate may have his name placed on a partisan town election ballot by submitting nomination papers. All the provisions of RSA 655:40 - 45 shall apply except that the duties performed by the secretary of state shall be performed by the town clerk. Fifty nomination papers shall be required for each town office for which a person files.

**669:53 Penalty for Violations.** Any person who shall violate any of the provisions of this subdivision shall be guilty of a misdemeanor. Any person who shall swear falsely in making oath under the provisions of this subdivision shall be guilty of perjury and punished accordingly.

### **By Unofficial Ballot**

**669:54 Nominations.** In the election of officers by unofficial ballot, nominations of candidates for office shall be by motion at the town meeting.

**669:55 Ballots.** In the election of officers by unofficial ballot, the town clerk shall prepare and provide to the moderator pieces of white paper of uniform size and weight to be used as ballots; provided, however, that if more than one ballot is used during any town election, each ballot shall be of a different color than any other ballot used at the election. The ballots may, at the discretion of the clerk, have printed on them the names of the offices to be elected, such as "For Selectman," or "For Town Treasurer." However, no names of candidates shall be printed on the unofficial ballots.

**669:56 Ballot Boxes.** A suitable box shall be provided by the selectmen, at the expense of the town, in which to receive the ballots of the voters.

**669:57 Conduct.** Upon receipt of his ballot from the moderator, each voter shall write thereon the name of every person for whom he desires to vote. Each voter shall deliver his ballot to the moderator in open meeting; and the moderator, on receiving the ballot, shall direct the town clerk to check the name of the voter on the checklist, and shall, without inspecting the name of any person voted for, examine the ballot so far only as to determine whether the same contains more than one ballot; if it does not, he shall place the ballot in the ballot-box; but if it does, he shall make it manifest to the meeting and reject the same unless the voter shall correct his ballot.

**669:58 Counting.** When all votes have been cast, the moderator shall, in the open meeting, sort and count the votes. The selectmen and town clerk shall assist in sorting and counting the votes; but no other person shall in any manner interfere therewith. After the counting, the moderator shall make a public declaration of the number of ballots cast, with the name of every person voted for and the number of votes for each; and the town clerk shall make a fair record thereof in the books of the town. No ballot shall be received and counted after the votes have been declared.

**669:59 Blank Votes.** If several offices are to be voted for upon the ballot, no person shall be required to vote for all. Any ballot which does not contain at least one vote for each office shall be regarded as a blank for the office omitted. Blank pieces of paper shall not be counted as ballots.

**669:60 Majority to Elect; Tie Vote.** In determining the results of any election by unofficial ballot, the whole number of persons voting for any office shall first be ascertained and then the vote for each candidate seeking said office. In order to win an office by unofficial ballot, a candidate must receive a majority of the votes cast for a certain office. In the case that more than one candidate receives a majority, the candidates with the largest majority of votes for the positions available shall be declared elected. In the event that 2 candidates receive an equal number of votes such that a winner cannot be determined, another balloting shall be taken.

### **Filling of Vacancies**

**669:61 Vacancies in Town Offices.** I. Whenever a vacancy as defined in RSA 652:12 occurs in any elective town office or whenever a town neglects or refuses to fill an elective town office, said vacancy shall be filled by the action of that body or person authorized by law to appoint or elect such officer for a term ending upon the election and

qualification of his successor, unless otherwise provided. Unless otherwise provided, at said next annual town election, the voters of the town shall then elect an officer for the full term provided by law or the balance of an unexpired term provided by law, as the case may be. If a town then refuses or neglects to fill said office, a vacancy shall be deemed again to exist.

II. Nothing in this section shall be deemed to empower a town to find that a vacancy exists, in the case of a contested election or recount, until the rendering of a final judgment by a court of competent jurisdiction or by the ballot law commission as to such contested election in accordance with RSA 652:12, V, or until the recount has been concluded.

III. For the purposes of paragraph I, and with respect to those offices elected by official, non-partisan ballot, the term "next annual town election" shall mean the next annual town election for which the nomination filing period, as set forth in RSA 669:19, begins subsequent to the occurrence of the vacancy. Any vacancy which occurs between the beginning of the filing period and the town election shall not be filled by official ballot until the annual town election the following year.

IV. The legislative body of a town may adopt or rescind the optional procedure in this paragraph for filling vacancies in elective town offices. If the authorized person or body does not make an appointment to fill the vacancy pursuant to paragraph I within 45 days after at least one legally-qualified person has applied in writing for such appointment, then upon the filing of a petition with the selectmen signed by the number of voters required under RSA 39:3 for the warning of a special town meeting, presented not less than 90 days before the next annual town meeting, the selectmen shall call a special election to fill the vacancy. The special election shall be subject to the provisions of RSA 39:3 and other applicable provisions governing town elections. The person elected at the special election shall serve for a term ending upon the election and qualification of his or her successor. Unless otherwise provided, at the next annual town election, the voters of the town shall elect an officer for the full term provided by law or the balance of an unexpired term provided by law, as the case may be. If the town then refuses or neglects to fill the office, a vacancy shall be deemed again to exist.

**669:62 Moderator.** Vacancies in the office of town moderator, shall be filled by appointment made by the supervisors of the checklist of said town, or by the town selectmen, where no board of supervisors exists.

**669:63 Selectmen.** Vacancies in the board of selectmen shall be filled by appointment made by the remaining selectmen. Whenever the selectmen fail to make such appointment, the superior court or any justice thereof, on petition of any citizen of the town, and after such notice as the court shall deem reasonable, may appoint a suitable person to fill the vacancy; provided, however, that if the town has adopted the provisions of RSA 669:61, IV, and a petition thereunder is submitted before the submission of a petition under this section, the provisions of RSA 669:61, IV shall apply.

**669:64 Supervisors of the Checklist.** Vacancies in the board of supervisors shall be filled within 45 days by appointment made by the remaining supervisors. If there is only one member of the board, or if the whole board shall be vacant, or if the remaining supervisors fail to fill the vacancy within 45 days, the moderator shall make the appointments. If a town elects supervisors by means of the partisan ballot system, any such appointee shall be of the same political party as the supervisor whose place he is filling.

**669:65 Town Clerk.** Vacancies in the office of town clerk shall be filled by appointment made by the selectmen except in towns in which pursuant to RSA 41:18 the selectmen have previously appointed a deputy town clerk, in which case the deputy shall serve as town clerk until the next annual town election, unless the deputy does not have his or her domicile in the town, in which case the vacancy shall be filled by appointment made by the selectmen.

**669:65-a Towns With Non-domiciled Deputy Town Clerk.** Repealed by Ch. 308, Laws of 2000

**669:66 Town Clerk-Tax Collector.** If a vacancy in the office of town clerk-tax collector occurs, the deputy provided for in RSA 41:45-c shall discharge the duties of the town clerk-tax collector until the selectmen fill the position of town clerk-tax collector within 30 days.

**669:67 Tax Collector.** If a vacancy in the office of tax collector occurs before the incumbent thereof has completed the collection of the taxes committed to him, or if the collector is removed from office pursuant to RSA 41:40,

the deputy tax collector provided for in RSA 41:38 shall discharge the duties of the tax collector until the selectmen fill the position of tax collector within 30 days.

**669:68 Town Auditors.** Vacancies in the office of town auditor shall be filled by appointment made by the supervisors of the checklist. If a supervisor is also the town treasurer, he shall abstain from the decision on the appointment, and the other supervisors shall make the appointment.

**669:69 Town Treasurer.** Vacancies in the office of town treasurer shall be filled by appointment made by the selectmen except in towns in which, pursuant to RSA 41:29-a, the treasurer has appointed a deputy treasurer, in which case the deputy shall serve as town treasurer until the next annual town election.

**669:70 Municipal Planning Boards.** Vacancies in the membership and alternates of a town's municipal planning board shall be filled as provided in RSA 673:11 and 673:12.

**669:71 Municipal Budget Committee.** Vacancies on the municipal budget committee shall be filled in accordance with RSA 32:15, VII.

**669:72 Municipal Utility Commissioners.** Vacancies on a board of municipal utility commissioners shall be filled by the remaining members.

**669:73 Trustee of the Trust Fund.** Vacancies in the office of trustee of the trust fund shall be filled by appointment made by the board of selectmen for the remainder of the unexpired term.

**669:74 Highway Agents.** Vacancies in the office of elected highway agents shall be filled by appointment made by the board of selectmen for the remainder of the unexpired term.

**669:75 Vacancies in Other Offices.** Vacancies in the offices of constable, sewer commissioner, town assessor, overseers of public welfare, library trustee, and any other optional offices where no other method of filling a vacancy shall be provided by vote of the town shall be filled by appointment made by the board of selectmen.