

# Committee Report

**REGULAR CALENDAR**

**February 28, 2019**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Majority of the Committee on Municipal and County Government to which was referred HB 618-LOCAL,**

**AN ACT relative to the definition of contracts relative to official ballot default budgets. Having considered the same, report the same with the recommendation that the bill OUGHT TO PASS.**

**Rep. Julie Gilman**

**FOR THE MAJORITY OF THE COMMITTEE**

**MAJORITY  
COMMITTEE REPORT**

Committee:	Municipal and County Government
Bill Number:	HB 618-LOCAL
Title:	relative to the definition of contracts relative to official ballot default budgets.
Date:	February 28, 2019
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS

**STATEMENT OF INTENT**

This bill repeals RSA 40:13, IX(c), the definition of contracts in SB 2 default budgets. Under current law, any contract escalator clause cannot be included in a default budget's calculated bottom line. If the proposed budget fails and the default budget is activated then contracts are only budgeted for the same cost as the previous year, leaving the governing body to manipulate line items to pay bills. Alternatively, contracts with an escalator clause may be addressed in a warrant article, but risk failure. An example is waste management contracts. A contract is signed by the governing body at \$100 with a 3% escalator in the 2017 proposed budget. If the default budget is activated then in 2018 the contract would still be budgeted at \$100 not the \$103 increase. So where does that extra 3% come from in the 2018? Somewhere else, leaving the governing body to manipulate expenditures. For these reasons a majority of the committee recommends Ought to Pass.

Vote 11-8.

Rep. Julie Gilman  
FOR THE MAJORITY

Original: House Clerk  
Cc: Committee Bill File

## REGULAR CALENDAR

Municipal and County Government

**HB 618-LOCAL**, relative to the definition of contracts relative to official ballot default budgets.

**MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Julie Gilman for the **Majority** of Municipal and County Government. This bill repeals RSA 40:13, IX(c), the definition of contracts in SB 2 default budgets. Under current law, any contract escalator clause cannot be included in a default budget's calculated bottom line. If the proposed budget fails and the default budget is activated then contracts are only budgeted for the same cost as the previous year, leaving the governing body to manipulate line items to pay bills. Alternatively, contracts with an escalator clause may be addressed in a warrant article, but risk failure. An example is waste management contracts. A contract is signed by the governing body at \$100 with a 3% escalator in the 2017 proposed budget. If the default budget is activated then in 2018 the contract would still be budgeted at \$100 not the \$103 increase. So where does that extra 3% come from in the 2018? Somewhere else, leaving the governing body to manipulate expenditures. For these reasons a majority of the committee recommends Ought to Pass. **Vote 11-8.**

Original: House Clerk

Cc: Committee Bill File

COMMITTEE REPORT

COMMITTEE: Muni + County Govt

BILL NUMBER: 618

TITLE: relative to definition of contracts relative to official ballot default budgets

DATE: 2/20/19 CONSENT CALENDAR: YES  NO

OUGHT TO PASS

OUGHT TO PASS W/ AMENDMENT

INEXPEDIENT TO LEGISLATE

INTERIM STUDY (Available only 2<sup>nd</sup> year of biennium)

Amendment No.  
\_\_\_\_\_

STATEMENT OF INTENT:

THIS BILL REPEALS RSA 40:13, 1X(C) the definition of contracts in SB 2 default budgets. Under current law any contract, escalator cannot be included in a default budget's bottom line if the ~~proposed~~ <sup>escalated</sup> budget fails and the default budget is activated then contracts are only budgeted for the same cost ~~as~~ <sup>as</sup> the previous year leaving the governing body to manipulate line items to pay bills. Alternatively, contracts <sup>with escalators</sup> may be addressed in a warrant article but risk failure. An

COMMITTEE VOTE: Y-11 N-8

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Julie D. Williams  
For the Committee

*MB*



example is waste management contracts.  
A ~~the~~ contract is signed by the governing  
body at \$100 with a 3% escalator ~~in~~  
~~the 2017~~ proposed budget. If the default budget  
is activated then ~~the contract will be~~  
in 2018 the contract would still be  
budgeted at \$100 not ~~the~~ the \$103  
increase. So where does that extra 3%  
come from in the 2018? Somewhere else,  
leaving the governing body to manipulate  
expenditures.

For these reasons a majority of the  
committee voted OTP.

**REGULAR CALENDAR**

**February 28, 2019**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Minority of the Committee on Municipal and County Government to which was referred HB 618-LOCAL,**

**AN ACT relative to the definition of contracts relative to official ballot default budgets. Having considered the same, and being unable to agree with the Majority, report with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.**

**Rep. Tom Dolan**

**FOR THE MINORITY OF THE COMMITTEE**

**MINORITY  
COMMITTEE REPORT**

Committee:	<b>Municipal and County Government</b>
Bill Number:	<b>HB 618-LOCAL</b>
Title:	<b>relative to the definition of contracts relative to official ballot default budgets.</b>
Date:	<b>February 28, 2019</b>
Consent Calendar:	<b>REGULAR</b>
Recommendation:	<b>INEXPEDIENT TO LEGISLATE</b>

**STATEMENT OF INTENT**

The minority felt that this bill was not needed, as the solution for placing successive escalating contracts into municipal default budgets was already available. This solution simply required exposure to the voters in a warrant article that enumerated the escalation amounts in subsequent years. Once exposed in that manner, the escalations may be included in the default budget.

Rep. Tom Dolan  
FOR THE MINORITY

Original: House Clerk  
Cc: Committee Bill File



## REGULAR CALENDAR

Municipal and County Government

**HB 618-LOCAL**, relative to the definition of contracts relative to official ballot default budgets.  
**INEXPEDIENT TO LEGISLATE.**

Rep. Tom Dolan for the **Minority** of Municipal and County Government. The minority felt that this bill was not needed, as the solution for placing successive escalating contracts into municipal default budgets was already available. This solution simply required exposure to the voters in a warrant article that enumerated the escalation amounts in subsequent years. Once exposed in that manner, the escalations may be included in the default budget.

Original: House Clerk  
Cc: Committee Bill File

## Heather Ebbs

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**From:** Carson, Clyde  
**Sent:** Wednesday, February 27, 2019 7:45 AM  
**To:** Heather Ebbs  
**Cc:** Dolan, Tom; Josephson, Timothy  
**Subject:** FW: Committee reports

Hi Heather,

HB618 is good to go. I've suggested to Rep Dolan that he add some language to the HB553 report.

Thank you,

Clyde

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From: Tom Dolan [tomd0610@gmail.com]  
Sent: Tuesday, February 26, 2019 5:33 PM  
To: Josephson, Timothy; Carson, Clyde  
Subject: Committee reports

### HB618 Minority Report

ITL?

The minority felt that Bill618 was not needed as the solution for placing successive escalating contracts into municipal default budgets was already available. This solution simply required exposure to the voters in a warrant article that enumerated the escalation amounts in subsequent years. Once exposed in that manner, the escalations may be included in the default budget.

### HB553 Majority Report

The quorum requirement would effectively eliminate the ability of the legislative body to amend warrant articles at the deliberative session. The committee unanimously supported ITL.

# Voting Sheets

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB 618-LOCAL

**BILL TITLE:** relative to the definition of contracts relative to official ballot default budgets.

**DATE:** February 26, 2019

**LOB ROOM:** 301

**MOTIONS:** OUGHT TO PASS

Moved by Rep. Gilman

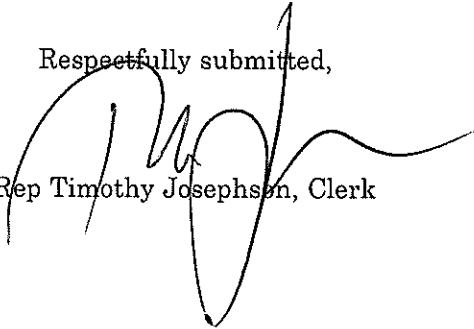
Seconded by Rep. Josephson

Vote: 11-8

**CONSENT CALENDAR: NO**

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

  
Rep Timothy Josephson, Clerk

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB 618-LOCAL

BILL TITLE: relative to the definition of contracts relative to official ballot default budgets.

DATE: February 26, 2019

LOB ROOM: 301

MOTION: (Please check one box)

OTP                       ITL                       Retain (1<sup>st</sup> year)                       Adoption of  
Amendment # \_\_\_\_\_  
 Interim Study (2nd year)                      (if offered)

Moved by Rep. Gilman                      Seconded by Rep. Josephson                      Vote: 11-8

MOTION: (Please check one box)

OTP                       OTP/A                       ITL                       Retain (1<sup>st</sup> year)                       Adoption of  
Amendment # \_\_\_\_\_  
 Interim Study (2nd year)                      (if offered)

Moved by Rep. \_\_\_\_\_                      Seconded by Rep. \_\_\_\_\_                      Vote: \_\_\_\_\_

MOTION: (Please check one box)

OTP                       OTP/A                       ITL                       Retain (1<sup>st</sup> year)                       Adoption of  
Amendment # \_\_\_\_\_  
 Interim Study (2nd year)                      (if offered)

Moved by Rep. \_\_\_\_\_                      Seconded by Rep. \_\_\_\_\_                      Vote: \_\_\_\_\_

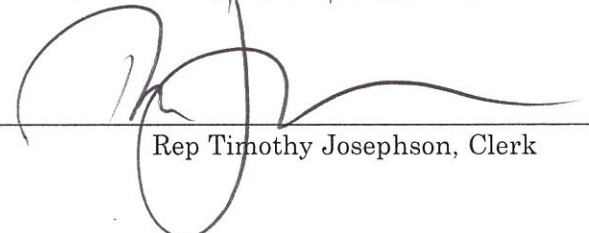
MOTION: (Please check one box)

OTP                       OTP/A                       ITL                       Retain (1<sup>st</sup> year)                       Adoption of  
Amendment # \_\_\_\_\_  
 Interim Study (2nd year)                      (if offered)

Moved by Rep. \_\_\_\_\_                      Seconded by Rep. \_\_\_\_\_                      Vote: \_\_\_\_\_

CONSENT CALENDAR:      \_\_\_\_\_ YES       NO

Minority Report?  Yes      \_\_\_\_\_ No      If yes, author, Rep: Dolan      Motion ITL

Respectfully submitted:   
Rep Timothy Josephson, Clerk





2019 SESSION

Municipal and County Government

Bill #: 618 Motion: OTP AM #: \_\_\_\_\_ Exec Session Date: 2/26/19

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Carson, Clyde J. Chairman	11		
Tatro, Bruce L. Vice Chairman	1		
Porter, Marjorie A.	2		
Treleaven, Susan GS	3		
Gilman, Julie D.	4		
Josephson, Timothy Clerk	5		
Meador, David R.	6		
Dargie, Paul P.	7		
Maggiore, Jim V.	8		
Mombourquette, Donna M.	9		
Stavis, Laurel	10		
Belanger, James P.		1	
Migliore, Vincent Paul		2	
Abramson, Max		3	
Dolan, Tom		4	
Kittredge, Derek MacMillen		5	
MacDonald, John T.		6	
Perreault, Mona			
Piemonte, Tony		7	
Pratt, Kevin M.		8	
<b>TOTAL VOTE:</b>	<u>11 - 8</u>		

# Hearing Minutes



the contract and the voters can say no. That's current law) This bill would correct that?  
(yes)

2. **Hon Harriet Cady --**

- a. Contracts go up, but when you see the numbers on the warrant it isn't realistic
- b. We have a law that says SAUs will receive based on population and town valuation. Counties receive based on population. Nowhere does it say the NHMA, NHSBA or the Regional Planning Commissions could charge us based on value. This bill would allow this automatic extension in the cost

3. **\* Peter Cierro - Londonderry School System**

- a. \*\*\* see "Buildings and Grounds - Contracts" \*\*\*
- b. If I understand correctly, this would return the power to governing bodies to make operating contracts -- schools, transportation, energy, software, etc
- c. The difference between the definition of "contracts" in default budgets was in place and we had contracts signed but they are no longer in the default budget, that means that the difference have to be made up somewhere
- d. Every town and every school every year, always have a surplus, it has to. It always have to hold money to the end of the year so it doesn't go over its approved budget unless something catastrophic happens.
- e. In our town, if the budget fails and we are in a default budget, we are on the hook for \$350k. If we go into a second default budget, we are still on the same
- f. Transportation for example. If I wait until the second week in March, the representative from bus company cannot guarantee
- g. We all know that no means no -- if the transportation contract fails. Now there is a law that says I have to provide transportation, but no means no, who wins? We are told to run the schools and towns as a business, but this defeats the purpose.
- h. We are having a difficult time negotiating with vendors
- i. We are not able to provide what we are supposed to do in order to comply with the laws
- j. These contracts are open to the public and anyone can see it and come to a board meeting
- k. This could put a school or town into default on the budgets
- l. My suggestion for an amendment, on the book there is a date that ZBA petitioned articles must be submitted on a certain date -- do something similar. Make a deadline for contracts being signed. Any contract that's been approved by the same date is allowed in the default budget.
- m. Q: Migliore: can you tell me approximately the surplus Londonderry has in its school budget? (\$200,000) On a \$75million budget? (yes. We have two capital reserves we put the surplus into) So you have no unexpended funds for the next year's tax rate? (yes, about \$25k or \$50k is applied to the next tax bill)

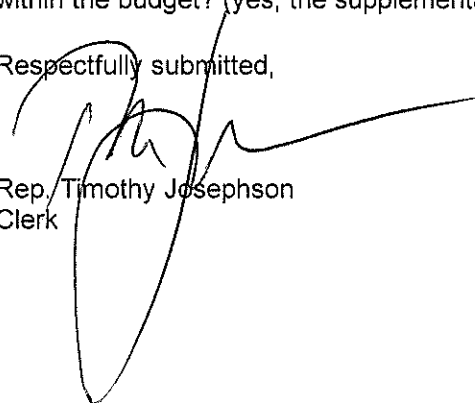
4. **Cordell Johnston -- NHMA -- no position on the bill**

- a. We have no position aside from it's complicated
- b. The definition of default budget is last year's budget plus or minus. Until last year it said "contracts previously incurred or approved"
- c. One town, town administrator had a contract. Midyear town selectboard entered a contract with her
  - i. SB2 town, preparing default budget, the selectboard said "it's a contract, it goes into the default budget"
  - ii. Not sure if that's actually a way to get around the basic requirement that default budgets are plus/minus things that are truly needed
  - iii. Town felt it could go into the default, and the court said no, it does not go into default budget
  - iv. Last year's bill was to codify that decision into law
- d. It gets more complicated when you talk about escalator clauses in contracts
- e. We should not lose sight of "contracts mandated by law" -- solid waste disposal is required by law to provide, so you could argue that the contract with solid waste could go

into default, escalator and all

- f. Very complicated, maybe a subcommittee again
- g. Q: Migliore: if the language said "that were previously incurred or required by law" wouldn't that exclude the matter at hand, is it being misinterpreted? (It's there, "other obligations mandated by law" -- i.e. school districts are required to provide transit but are you required to pay X amount? One provider for school buses, maybe yes mandated. If you can negotiate, then maybe it's not)
- h. Q: Dolan: in the strategy that is being employed now in Londonderry with solid waste removal and trying to plan for this, we put a supplemental budget on the warrant and we have contingencies we are planning on to make up that amount. Maybe we have an additional town meeting to ask for that. What do you think about towns/schools being wrangled into these extreme options? (you run that risk and you are kind of stuck with the current language and the contract that you have with the amounts that you have and if the price goes up, you can enter into that contract and put it into next year's operating budget but you can't put it in the default budget and if proposed budget fails, you can't have it in default). Does this bill fix the problem like that? (depends. The existing law makes it clear that you are not allowed to put it in default)
- i. Q: Migliore: Clearly at a loss why Londonderry couldn't simply say their trash collection is mandated by law therefore it will be included in default (they could try that, but if there are three different trash haulers and they only got one price, someone could say yes, disposal is mandated but price is not) If it's an escalation clause that is in a previously approved contract, why do we need to put it in there like that? (yes, it works with collective bargaining agreements that have been sanbornized. But trash contracts aren't typically sanbornized)
- j. Q: Abramson: Aren't towns allowed to have a separate warrant article to appropriate within the budget? (yes, the supplemental warrant article as mentioned in Londonderry)

Respectfully submitted,

  
Rep. Timothy Josephson  
Clerk





H618-LOCAL -- relative to the definition of contracts relative to official ballot default budgets

1. Rep Julie Gilman -- PRIME SPONSOR

- a. This is in response to a bill that passed last year
- b. Contract language is confusing and contracts change
- c. For example, you have an allotment for electricity
- d. If default budgets are defined by the "same amount" as last year, it does not address necessary changes
- e. Q: Dolan: So would this fix the problem like a trash contract that moves year to year? (it's the opposite, the contract was signed for year one in \$100, but year two it goes to \$103, the current RSA says you have to stick to \$100. For example, the waste management company had to change the fees and that was not budgeted, we cannot add the fee into our default budget) Would this bill allow contracts that escalate? (yes and no, the governing body only signs contracts. Previous legislation thought legislative body should have more say. Contracts come to ballot with total cost, so governing body knows about escalating but not necessarily legislative)
- f. Q: Porter: In multi-year contracts we showed the voters the cost per year. Is this fixing that, changing that? (no, it's for that particular section dealing with default budgets. Contracts with employees are always in the warrant article for a length of time -- legislative body has voted on those numbers.
- g. Q: Abramson: Contracts like ones with teachers but also with private companies? (yes) is this related to the Evergreen Clause? (no)
- h. Q: Dolan: we have the same problem with the refuse company. We can't meet our obligation because we agreed to a budget increase as a governing body, but we had to, would you be in favor of an amendment that allowed escalating contracts? (yes, but that's what this bill does) So, if this bill were to pass, then I would no longer have to have a warrant article for supplemental operating budgets to make up the difference for a default budget
- i. Q: Mombourquette: if a town had a contract with dispatch, and because of the amount of volume was not assessed properly, the following year they increased the contract because of the actual service used. Based on your bill, how would that be worked into a default budget? (in 2018, the voters voted for a set number, but in the proposed budget 2019 they voters expect it to be the same, but the governing body has agreed to raise the contract and the voters can say no. That's current law) This bill would correct that? (yes)

2. Hon Harriet Cady --

- a. Contracts go up, but when you see the numbers on the warrant it isn't realistic
- b. We have a law that says SAUs will receive based on population and town valuation. Counties receive based on population. Nowhere does it say the NHMA, NHSBA or the Regional Planning Commissions could charge us based on value. This bill would allow this automatic extension in the cost

3. \*\*\* Peter Cierro - Londonderry School System \*\*\*

- a. \*\*\* see "Buildings and Grounds - Contracts" \*\*\*

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    - iv. Last year's bill was to codify that decision into law
  - d. It gets more complicated when you talk about escalator clauses in contracts

- e. We should not lose sight of "contracts mandated by law" -- solid waste disposal is required by law to provide, so you could argue that the contract with solid waste could go into default, escalator and all
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- j. Q: Abramson: Aren't towns allowed to have a separate warrant article to appropriate within the budget? (yes, the supplemental warrant article as mentioned in Londonderry)

Adjourned 3:40







# Testimony

### Buildings & Grounds - Contracts

Description	Vendor	Annual \$\$	Term
HVAC Controls	Siemens	\$ 51,000.00	thru 6/2022
Elevators (HS)	Otis	\$ 10,300.00	annual
Elevators (LMS & MT)	Stanley	\$ 3,100.00	annual
Security Equipment	Pelmac	\$ 28,000.00	annual
Natural Gas	Direct Energy	\$ 172,000.00	thru 12/ 2021
Electricity	Direct Energy	\$ 300,000.00	thru 12/2021
Front End Loader	NNE Excavation	\$ 22,000.00	annual
Phones	Consolidated Comm.	\$ 58,000.00	thru 12/2021
Pest Control	JP Pest	\$ 11,400.00	annual
Mowing	TBD	\$ 26,000.00	3 year / 10/2022
Propane	Energy North	\$ 7,000.00	annual
Storage Containers	Fortin Equipment	\$ 10,000.00	annual
Office Cleaning	Phoenix Cleaning	\$ 18,000.00	annual
Generators	Power Up Generator	\$ 3,300.00	annual
Cell Phones	Verizon Wireless	\$ 17,000.00	thru 6/2020
Portable Toilets	Triangle Portable	\$ 8,500.00	annual

**Peter Curro**

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**From:** Kim Carpinone  
**Sent:** Monday, November 26, 2018 2:56 PM  
**To:** Peter Curro  
**Cc:** Maureen Quinlan  
**Subject:** annual contracts for Pupil Services

We have no longer term contracts (outside of transportation).

We have 9 annual contracts –

SERESC – vision services  
Boothby – vision services  
Future in Sight – vision and orientation and mobility services  
NE Low Vision – Vision assistive technology services  
Atech – Assistive tech support  
HearNH – Teacher of the Deaf  
Hear to Learn - Educational Audiologist  
Work Opportunities – transitional services

In addition –

We have annual nursing contracts for one to one nurses that vary by agency year to year (Interim, Regency, Maxim)

All of the above are prescribed IEP or 504 services and mandated by law.

In addition we have a federally mandated obligation to MOE (Maintenance of Effort) which is maintaining general funding to our special education population unless there is a change in population and needs (this includes staffing, technology access)

Thanks  
Kim

Kimberly Carpinone  
Director Of Pupil Services  
Londonderry School District  
6A Kitty Hawk Landing Suite 101  
Londonderry, NH 03053  
603-432-6920 ext 1113

Bill as  
Introduced

HB 618-LOCAL - AS INTRODUCED

2019 SESSION

19-0678  
08/06

HOUSE BILL

***618-LOCAL***

AN ACT

relative to the definition of contracts relative to official ballot default budgets.

SPONSORS:

Rep. Gilman, Rock. 18; Rep. Josephson, Graf. 11

COMMITTEE:

Municipal and County Government

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ANALYSIS

This bill repeals the definition of contracts relative to official ballot default budgets.

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Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

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

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Nineteen*

AN ACT                   relative to the definition of contracts relative to official ballot default budgets.

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

- 1           1 Repeal. RSA 40:13, IX(c), relative to the definition of contracts relative to municipal budgets,
- 2 is repealed.
- 3           2 Effective Date. This act shall take effect upon its passage.