



# An Introduction to RSA chapter 202-A

Natch Greyes, Esq.  
New Hampshire Municipal Association



# Presenter



*Natch Greyes*

*Municipal Services Counsel*

# Agenda

- ▶ Library Basics
- ▶ Library Governance
- ▶ Library Budget
- ▶ Library Employees



# Library Basics



# Libraries are Important

## RSA 202-A:1

Mindful that, as the constitution declares, "knowledge and learning, generally diffused through a community" are "essential to the preservation of a free government" the legislature recognizes its duty to encourage the people of New Hampshire to extend their education during and beyond the years of formal education.

To this end, [the legislature] hereby declares that the public library is a valuable supplement to the formal system of free public education and as such deserves adequate financial support from government at all levels.

# What is a “public library?”

## RSA 202-A:2

- ▶ Libraries that receive **regular financial support** (at least annually) from public or private sources and provide regular library service to the public without charge.
- ▶ The definition may include, but is not limited to:
  - ▶ reference and circulating libraries,
  - ▶ reading rooms, and
  - ▶ museums regularly open to the public.

# How are Public Libraries Created?

RSA 202-A:3 provides two options:

- ▶ Legislative body may vote to establish a library
- ▶ Legislative body may vote to accept a library that is created in whole or in part by donation or bequest.



# Can Public Libraries be Shuttered?

- ▶ Town established libraries may be discontinued pursuant to RSA 202-A:18, requiring a vote of the legislative body.
- ▶ Privately established libraries may not be able to be discontinued.
  - ▶ RSA 202-A:18 states that it does not apply to “a public library [that] has been acquired by the town in whole or in part by donation or bequest.”
  - ▶ RSA 202-A:4 provides that “[a]ny city or town having a public library shall annually raise and appropriate a sum of money sufficient to provide and maintain adequate public library service therein or to supplement funds otherwise provided.”
    - ▶ Note that RSA 202-A:4 prevents a library from “ceas[ing] to function,” thus making it impossible for it to be defunct for the purposes of RSA 202-A:19, unless RSA 202-A:18’s vote applies.

# Other “Types” of Libraries

## ▶ Cooperatives

- ▶ RSA 202-A:4-a provides that towns can raise and appropriate money for participation in library cooperatives.

## ▶ Contracts w/Other Libraries

- ▶ RSA 202-A:4-b provides that towns can raise and appropriate money for their citizens to use library services in another town.
  - ▶ Typically seen smaller towns.



# Can Libraries Charge User Fees?

- ▶ No, RSA 202-A:5 prevents a public library from charging user fees of any resident of the municipality in which it is located.

# Special Legal Penalties



Damaging library property, misdemeanor w/special penalty (3x amount damage forfeited) (RSA 202-A:24)



Detaining books (i.e. late books), violation (RSA 202-A:25)



Trustee violating law, misdemeanor (RSA 202-A:21)

# Library Governance



# Libraries are Governed by Library Trustees

## RSA 202-A:6, :11

- ▶ Entire custody and management of the public library and of all the property of the town relating thereto, including appropriations
- ▶ Adopt bylaws, rules, and regulations
- ▶ Prepare an annual budget
- ▶ Expend all moneys raised and appropriated for library
- ▶ Expend income from all trust funds for library purposes
- ▶ Appoint a librarian
- ▶ Appoint other employees, in consultation with the librarian, and determine their compensation and other terms of employment

# Library Trustees Basics



Elected, three-year terms

Odd number of trustees

Up to 3 alternates (1-year terms)

- RSA 202-A:6, :10; RSA 669:16

No compensation, RSA 202-A:14

City Library Trustees, RSA 202-A:8

Special library trustee, RSA 202-A:7

# Trustees' Discretionary Powers RSA 202-A:13



Pay for library courses and professional development



Allow nonresidents to use library



Deposit money with state to pool purchasing with state library

# Right-to-Know Law Applies to Trustees (and Library)



- ▶ Public library qualifies as an “agency” under the definition in RSA 91-A:1-a.
  - ▶ Therefore, libraries must follow the records requirements of RSA 91-A.
  - ▶ NOTE: Library User Records are COMPLETELY protected.
    - ▶ RSA 33-A:3-a PROHIBITS keeping library user records.
    - ▶ If records exist, RSA 91-A:5 strictly PROHIBITS disclosure of them, and they are confidential in accordance with RSA 201-D:11.
- ▶ Library trustees qualify as a “public body” under the definition in RSA 91-A:1-a, but RSA 202-A:3-a reiterates this fact.
  - ▶ Therefore, library trustee meetings must follow the notice, access, and minutes requirements of RSA 91-A

# Gifts, Donations, & Trust Funds



RSA 202-A:4-c authorizes town meeting to vote to allow library trustees to apply for, accept and expend, unanticipated money from a governmental or a private source.



RSA 202-A:4-d authorizes town meeting to vote to allow library trustees to accept gifts of personal property (not money or real estate).



RSA 2020-A:22 - :23 authorizes library trustees to accept gifts of trusts, which are held by the trustees of trust funds, unless the trust specifies that the library trustees can hold and manage it.

# Annual Reports Required

## RSA 202-A:12: Annual Report

- Receipts
- Expenditures
- Property in trustees' care/custody
- Bequests/donations
- Number of books
- Number of borrows and statement on use of library
- (Must also submit report to state library)

## RSA 202-A:12-a: Report to Attorney General

# Library Budget



# Budget Process

- ▶ Library trustees prepare budget request in accordance with RSA 202-A:11, II
- ▶ Library trustees submit budget request to select board or budget committee, if any, pursuant to RSA 32:5
- ▶ Select board and/or budget committee may modify any budget requests during the budget process, meaning that a different amount may be placed upon the warrant.



# Budget Process (Cont.)

- ▶ During town meeting, trustees (or other residents) may modify the amount allocated to the library.
- ▶ Whatever amount allocated to the library by town meeting is appropriated to the library in accordance with RSA 202-A:4.
- ▶ Library trustees may spend all monies appropriated to the library. RSA 202-A:11, II.



# Other Sources of Money

- ▶ Trust funds created for library purposes - whether private or municipally created - can have their income expended by the library trustees. RSA 202-A:11, III.
- ▶ If a town adopts the provisions of RSA 202-A:11-a through the process outlined in RSA 2020-A:11-b, the library may keep all money received from a library's income-generating equipment in a nonlapsing fund
  - ▶ That money may be used for general repairs and upgrading and for the purchase of books, supplies and income-generating equipment.



# Library Employees



# Public Librarian



“Sufficient breadth & depth to give leadership in the use of books and related materials”



Appointed by trustees



Term of office, time of appointment



Administrative head of library



Recommends appointment of other employees

# Removal of employees

---

Discharge or removal

---

Malfesance, misfesance, or inefficiency in office, or incapacity or unfitness

---

Written statement of grounds/reasons

---

May request hearing

---

Not more than 30 days

---

No change in salary during proceedings



*for joining me today!*



## NHMA'S MISSION

Through the collective power of cities and towns, NHMA promotes effective municipal government by providing education, training, advocacy and legal services.

[legalinquiries@nhmunicipal.org](mailto:legalinquiries@nhmunicipal.org)

603.224.7447

[www.nhmunicipal.org](http://www.nhmunicipal.org)