

In New Hampshire town with an official budget committee, the select board representative is not legally required to vote based on the select board's policy. As a voting member of the budget committee, their duty is to act in good faith and in the best interests of the town, which is a broader and independent obligation.

Here's a breakdown of the representative's role:

- **Full voting member:** The select board representative, also known as an "ex-officio" member, serves as a full voting member on the budget committee, alongside the at-large members. This is a mandatory and legally established role.
- **Independent duty:** Budget committee members, including the select board's appointee, are expected to vote based on their own best judgment for the town's benefit. They do not have to strictly adhere to the position of the body that appointed them, such as the select board.
- **Distinct roles:** The select board, as the town's executive body, presents its proposed budget to the budget committee. The budget committee then prepares its own recommended budget for the town voters. The select board representative's role on the budget committee is to participate in this independent review process.
- **Representative function:** While the select board representative may articulate the select board's views during budget committee discussions, their final vote is their own. This ensures that the budget committee functions as an independent check on the proposed budgets from the various town departments.
- **Final say with voters:** Ultimately, in a town meeting or SB2 form of government, the final budget is adopted by the voters, not the select board or the budget committee. The representative's vote is one of many that informs the budget committee's final recommendation to the public.

*From: Jim Hajar <jhajar@brentwoodnh.gov>
Sent: Wednesday, October 29, 2025 9:11 AM
To: Legal Inquiries <legalinquiries@nhmunicipal.org>
Subject: Clarification on role of ex-officio member of municipal budget committee*

To Whom it May Concern,

I am seeking to clarify the role of the selectboard "ex-officio" member of the Brentwood Municipal Budget Committee.

Some members have stated that "the selectboard representative must vote in support of the selectboard's view/vote on any given budgetary item/issue"

Other members have told me that "the select board representative may articulate the select board's views during budget committee discussions, but their final vote is their own"

For example, if the selectboard proposes a budget appropriation of \$2000 for a specific line item, if a budget committee member makes a motion (and it is seconded) to change that line item, is the selectboard representative required to vote "no" because it is not what the selectboard voted and proposed?

Thank you for any guidance you can provide,

Sincerely,

*Jim Hajar
Chair, Brentwood Municipal Budget Committee*

From: Legal Inquiries <legalinquiries@nhmunicipal.org>

Sent: Wednesday, October 29, 2025 11:22 AM

To: Jim Hajjar <jhajjar@brentwoodnh.gov>

Subject: Brentwood: Clarification on role of ex-officio member of municipal budget committee

Hello Mr. Hajjar,

The answer is somewhere in the middle. The law does not specifically limit how an ex-officio member may vote, what motions they may make, or what they may say. RSA 32:15 (regarding the composition of budget committees) does not address this question. What we do know is that the Select Board chooses one of its members to be an ex-officio member of the Budget Committee. RSA 32:15, I(b). Presumably, the Select Board expects that person to represent the Select Board's views regarding budget issues - but nothing in the law prevents the ex-officio member from doing something different. The only limit is a practical one: if the Select Board is dissatisfied with what the ex-officio member is doing, it can vote to appoint a different Select Board member to be the ex-officio.

This conclusion is consistent with the one court decision we have on ex-officio voting rights, finding that a budget committee does not have the authority to restrict the voting rights of ex-officio members. The law imposes only two limits on ex-officio members: that they may not serve as at-large members (RSA 32:15, V), and that they may not serve as Chair (RSA 32:15, VI). The inclusion of these explicit limitations indicates that the legislature considered limits on ex-officio members' roles, and allowing limitations on their ability to vote on the committee was not among them. Had the legislature intended for such a limitation, it could have included that in the statute. As a result, the court concluded that ex-officio members enjoy full participation rights as committee members, including the right to vote. See *Town of Hudson and Hudson School Dist. SAU 81 v. Hudson Budget Committee*, Hillsborough County Superior Court, Docket No. 2022-CV-203 (Aug. 15, 2022).

I hope this information is helpful!

Regards,
Christine

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