



CITY OF PORTSMOUTH

Municipal Complex
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(603) 431-2000

March 21, 2018

The Honorable Andy Sanborn, Chairman
Senate Ways and Means Committee, SH 100
State House
Concord, NH 03301

Re. TESTIMONY IN OPPOSITION TO HB 1673

Dear Chairman Sanborn and Members of the Senate Ways and Means Committee:

My name is Judie Belanger, and I am the Director of Finance and Administration for the City of Portsmouth. I respectfully request that this Committee vote HB 1673 Inexpedient to Legislate for the reasons set forth below.

The State of New Hampshire takes pride in the fact that we are one of only two states in the Country that does not assess an Income tax nor a sales tax. Consequently, property tax is the primary method of financing local government services which our citizens deserve and expect. Property taxes make up approximately 80% of revenues to fund these services. We are concerned this bill will jeopardize our ability to collect this primary funding source.

When the tax lien statute was enacted in 1987, the interest rate for tax liens was established at 18% and has remained so for over 30 years. The 6% differential between delinquent tax (12%) and lien interest rate (18%) has proven to be an incentive for timely payment. In Portsmouth, in each of the past 5 years, 66% (2/3) of the current year delinquent property tax balances were paid during the 45-day period prior to tax lien, directly following the formal forewarning of the 18% interest rate. Less than 2 percent of our taxpayers fall into the delinquent category.

For the small percentage of those who are unable to pay their property taxes due to economic hardship, the State already has in place a number of statutory remedies to provide relief. The City of Portsmouth, as well as other municipalities, use these remedies to assist taxpayers who are experiencing financial hardship, including the elderly, disabled, blind, and others. This past year, Portsmouth abated interest charges for several taxpayers who, due to their financial struggles, were facing tax deeding.

If this bill passes, this would negatively impact the very people you are trying to protect.

- This bill would increase property tax delinquencies. Low rates could encourage *'borrowing' from municipalities*. Commercial properties in Portsmouth pay nearly 50% of the total tax

levy. Certainly, taxpayers may find it more financially beneficial to delay the payment of property taxes for up to 3 years using the municipality's very low interest rate. Increased property tax delinquencies could result in:

- The need for short term borrowing (TANS) resulting in additional interest and issuance costs at the expense of all taxpayers,
- A down grade of the City's bond rating. The City of Portsmouth has maintained an "AAA" bond rating with Standard and Poor's for the past 5 years. The rate of collection, history of tax delinquency, and cash flow is evaluated during a rating. A down grade would affect the ability for the city to obtain extremely low interest rates, incurring more costs for capital projects – at the expense of all taxpayers.
- An unintended consequence of this bill is the fact that it will decrease interest on tax revenue, resulting in an increase in the municipality's tax rate, in essence penalizing all taxpayers. Using the 2018 DRA underpayment rate of 6 percent, Portsmouth's tax rate would increase \$.03 cents/1,000 of valuation.
- We are also extremely concerned that lowering interest rates would directly increase the number of properties subject to tax deeding.

Finally, the annual fluctuating rate set forth in this bill will require extensive software changes. The fluctuating rate would also create a challenge to track and reconcile, thus jeopardizing internal controls.

Thank you for your time and the opportunity to provide this testimony. I sincerely hope you will vote this bill ITL.

Sincerely,



Judith A. Belanger

Director of Finance and Administration

HB 1673-FN-LOCAL - AS INTRODUCED

2018 SESSION

18-2206
05/10

HOUSE BILL ***1673-FN-LOCAL***

AN ACT relative to the interest charged on late and delinquent property tax payments.

SPONSORS: Rep. Scully, Hills. 33; Rep. Murotake, Hills. 32; Rep. Hynes, Hills. 21; Rep. Ferreira, Hills. 28; Rep. Bates, Rock. 7; Sen. Giuda, Dist 2

COMMITTEE: Ways and Means

ANALYSIS

This bill ties the interest rate charged on late and delinquent property tax payments to the annual underpayment rate determined by the commissioner of revenue administration, based on the rate specified in the Internal Revenue Code.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struckthrough.~~]
 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 Eighteen

AN ACT relative to the interest charged on late and delinquent property tax payments.

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

1 1 Apportionment, Assessment, and Abatement of Taxes; Interest. Amend RSA 76:13 to read as
2 follows:

3 76:13 Interest.

4 ***I.*** Interest at [~~12 percent per annum~~] ***the rate established pursuant to paragraph II***
5 shall be charged upon all taxes except resident taxes, except as otherwise provided by statute, not
6 paid on or before December 1 after their assessment, which shall be collected from that date with
7 the taxes as incident thereto, except in the case where a tax bill sent to the taxpayer on or after
8 November 2 and before April 1 of the following year interest shall not be charged until 30 days after
9 the bills are mailed. Interest due in an amount up to \$25 may be waived by the collector, with the
10 approval and consent of the board of selectmen and the board of assessors, if in the collector's
11 judgment the administrative and collection costs involved do not warrant collection of the amount
12 due. The tax collector shall state on the tax bill the date from which interest will be charged and
13 such date shall be determined by the day the collector sends out the last tax bill on the list. The
14 collector shall notify the board of tax and land appeals in writing of the date on which the last tax
15 bill was sent.

16 ***II.*** ***In this section, the interest rate charged for unpaid taxes shall be the same rate***
17 ***as the annual underpayment rate determined in RSA 21-J:28, II. If more than one***
18 ***underpayment rate is in effect during the period of nonpayment, the municipality may***
19 ***charge the highest underpayment rate established during the period of nonpayment.***

20 2 Property Taxes; Quarterly Billing. Amend RSA 76:15-aa, IV to read as follows:

21 IV. Interest at the [~~rate of 12 percent per annum~~] ***same rate as the annual***
22 ***underpayment rate determined in RSA 21-J:28, II*** shall be charged on all taxes not paid on or
23 before their due dates or 30 days after mailing, whichever is later; ***provided that, if more than***
24 ***one underpayment rate is in effect during the period of nonpayment, the municipality may***
25 ***charge the highest underpayment rate established during the period of nonpayment.***

26 3 Collection of Taxes; Tax Sales; Redemption; Interest Rate. Amend RSA 80:32 to read as
27 follows:

28 80:32 Redemption. Any person with a legal interest in land so sold may redeem the same by
29 paying or tendering to the collector, or in his ***or her*** absence, at his ***or her*** usual place of abode, at
30 any time before a deed thereof is given by the collector, the amount for which the land was sold,
31 with interest at [~~18 percent per annum~~] ***the same rate as the annual underpayment rate***

1 **determined in RSA 21-J:28, II** upon the whole amount for which the land was sold from the time
 2 of sale to the time of payment in full, except that in the case of partial payments in redemption
 3 made under RSA 80:33-a, the interest shall be computed on the unpaid balance, together with
 4 redemption costs and costs for notifying the mortgagees, if any. **If more than one underpayment**
 5 **rate is in effect during the period of nonpayment, the municipality may charge the highest**
 6 **underpayment rate established during the period of nonpayment.** In case the tax collector
 7 who sold the property in question shall have died, become incapacitated, been removed from office
 8 or removed from the town or city or shall have been discharged from his **or her** bond by the
 9 selectmen or assessors, then the person with the legal interest in redeeming the property may
 10 tender such sums to the tax collector then in office of said city or town. Upon advice from the
 11 selectmen or assessors that the amount tendered is the correct amount due, the tax collector shall
 12 accept said amount for the redemption of the property.

13 4 Collection of Taxes; Tax Sales; Subsequent Tax; Interest Rate. Amend RSA 80:37 to read as
 14 follows:

15 80:37 Payment of Subsequent Tax. For purposes of this section, "subsequent tax" shall mean
 16 any tax assessed upon the real estate subsequent to that for which it was sold by a municipality, a
 17 county or the state. The purchaser of real estate at any tax sale may pay to the collector any
 18 subsequent tax and the collector shall, within 30 days after such payment, notify the register of
 19 deeds thereof, giving the date and the amount of such payment and the name of the person so
 20 paying together with the date of the tax sale, the name of the person taxed and a description of the
 21 property sold as shown in the report of sale recorded in the registry of deeds. The collector of taxes
 22 shall receive \$1 for such notice to the register of deeds of the payment of subsequent tax plus \$1 to
 23 be paid to the register of deeds. The purchaser, within 30 days of payment of the subsequent tax,
 24 shall personally, or by certified mail, notify in writing any mortgagee who was notified of his
 25 purchase at the tax sale of this payment of the subsequent tax. The purchaser paying the
 26 subsequent tax shall receive the same fees prescribed for notifying the mortgagee of his **or her**
 27 purchase at the tax sale to be included in [~~his~~] **the** costs to be paid by the person making
 28 redemption, except that when a town is a purchaser at a tax sale and the town pays a subsequent
 29 tax and the selectmen direct the collector of taxes as agent for the town to give notice of payment of
 30 a subsequent tax to any mortgagee who was notified of the purchase by the town at the tax sale, the
 31 collector shall be paid the sum of \$5 for this service. Any amounts so paid on account of subsequent
 32 taxes, together with interest thereon at the [~~rate of 18 percent per annum~~] **same rate as the**
 33 **annual underpayment rate determined in RSA 21-J:28, II** from the date of payment shall, in
 34 addition to the purchase price at the time of sale with accrued interest and costs, be paid by the
 35 person making redemption. **If more than one underpayment rate is in effect during the**
 36 **period of nonpayment, the municipality may charge the highest underpayment rate**
 37 **established during the period of nonpayment.**

38 5 Collection of Taxes; Tax Liens; Redemption; Interest Rate. Amend RSA 80:69 to read as

1 follows:

2 80:69 Redemption. Any person with a legal interest in land subject to a real estate tax lien may
3 redeem the same by paying or tendering to the collector, at any time before a deed thereof is given
4 by the collector, the amount of the real estate lien, with interest at [~~18 percent per annum~~] **the**
5 **same rate as the annual underpayment rate determined in RSA 21-J:28, II** upon the whole
6 amount of the recorded lien from the date of execution to the time of payment in full, except that in
7 the case of partial payments in redemption made under RSA 80:71, the interest shall be computed
8 on the unpaid balance, together with redemption costs and costs for identifying and notifying the
9 mortgagees, if any. **If more than one underpayment rate is in effect during the period of**
10 **nonpayment, the municipality may charge the highest underpayment rate established**
11 **during the period of nonpayment.** In case the tax collector who executed the tax lien against the
12 property in question shall have died, become incapacitated, been removed from office or removed
13 from the town or city or shall have been discharged from his **or her** bond by the selectmen or
14 assessors, then the person with the legal interest in redeeming the property may tender such sums
15 to the tax collector then in office of said city or town. Upon advice from the selectmen or assessors
16 that the amount tendered is the correct amount due, the tax collector shall accept said amount for
17 the redemption of the property.

18 6 Collection of Taxes; Tax Liens; Interest Rate. Amend RSA 80:75, III to read as follows:

19 III. When a municipality is the lienholder and the municipality pays a subsequent tax and
20 the selectmen direct the collector of taxes, as agent of the municipality, to give such notice of said
21 payment to any owner and to any mortgagee as provided above, the collector of taxes shall receive
22 the same fees provided for the lienholder for his service. The amount of subsequent taxes paid,
23 together with interest on such taxes at the [~~rate of 18 percent per annum~~] **same rate as the**
24 **annual underpayment rate determined in RSA 21-J:28, II** from the date of payment shall, in
25 addition to the tax lien amount at the time of execution with interest and costs, be paid by the
26 person making redemption. **If more than one underpayment rate is in effect during the**
27 **period of nonpayment, the municipality may charge the highest underpayment rate**
28 **established during the period of nonpayment.**

29 7 Effective Date. This act shall take effect April 1, 2018.

**HB 1673-FN-LOCAL- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to the interest charged on late and delinquent property tax payments.

FISCAL IMPACT: State County Local None

LOCAL:	Estimated Increase / (Decrease)			
	FY 2019	FY 2020	FY 2021	FY 2022
Revenue	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Expenditures	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill changes the interest rates on late and delinquent property tax payments from a fixed rate of 12 percent for pre-lien payments and 18 percent for post lien payments, to the annual underpayment rate determined by the Commissioner of Revenue Administration, based on the rate specified in the Internal Revenue Code, pursuant to RSA 21-J:28, II.

The New Hampshire Municipal Association states the underpayment rate for 2018 is 6 percent. Using the data from the NH Public Finance Consortium website (www.nhpf.org account 3190) revenue from interest and penalties on delinquent taxes in 2015 was reported by municipalities as approximately \$26,144,339. The Association assumes this report includes primarily interest. Assuming the amount of delinquent taxes and the timing on the payment of those taxes remains constant for future years based on the reported figure from 2015, the amount of interest collected on delinquent property taxes on an annual basis would be reduced to approximately half of the amount generated in 2015, or approximately \$13,000,000. The Association assumes the current interest rates of 12 percent and 18 percent encourages timely payments of property taxes. Reducing these disincentives for non-payment may increase the incidence of non-payments, thereby further decreasing local revenues and increasing local collection costs.

The Department of Revenue Administration reports that over the prior 10 year period, the interest rate calculated by the Commissioner pursuant to RSA 21-J:28, II has ranged from a high of 10 percent to a low of 5 percent. Therefore the DRA assumes tying the interest rate applicable to unpaid property taxes to the interest rate calculated pursuant to RSA 21-J:28, II will result in a decrease in the interest rate applicable to unpaid property taxes. The Department assumes the current interest rates of 12 percent and 18 percent encourages timely

payments of property taxes. The Department assumes reducing these disincentives for non-payment may increase the incidence of non-payments, thereby further decreasing local revenues and increasing local collection costs. Detailed information on local property tax defaults or interest collected is not available, and abatement at the local level by selectmen and assessors is also not accounted for in determining the exact fiscal impact. Therefore the fiscal impact of the legislation is indeterminable.

AGENCIES CONTACTED:

New Hampshire Municipal Association and Department of Revenue Administration