

## Re: SB 75 Bond Requirement

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From Fred Garofalo <fgarofalo@haverhill-nh.com>

To Marie Francis <WellreadNH@protonmail.ch>

CC townmanger@haverhill-nh.com, jboucher@haverhill-nh.com

Date Monday, May 30th, 2022 at 9:31 PM

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Marie,

I have read your email and understand your concern.

I will be seeing the towns attorney tomorrow and ask his advice on how to deal with the information you have given us.

Please be patient as we all try to work out our differences.

Sincerely,

Fred Garofalo

Selectman

Haverhill, NH

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**From:** Marie Francis <WellreadNH@protonmail.ch>

**Sent:** Monday, May 30, 2022 1:44 PM

**To:** Fred Garofalo <fgarofalo@haverhill-nh.com>

**Cc:** townmanger@haverhill-nh.com <townmanger@haverhill-nh.com>; Jennifer Boucher <jboucher@haverhill-nh.com>

**Subject:** SB 75 Bond Requirement

Dear Chairman Garofalo,

I have read both the final version of SB 75 and the Partial Summary Judgment of the pending lawsuit brought by Woodsville.

Both PDFs are attached for completeness.

I have a question:

**Page 3** of the Summary Judgement upholds ***the most recent version of SB 75***.

Please see the highlighted area here:

resulting figure shall be the total amount of money budgeted for road maintenance by the Town of Haverhill with the annual percentage factor (determined from the above stated MS-1 report) of the total road budget returned to the Woodsville Fire District as the so-called "Woodsville Road Money" pursuant to said Special Act.

(Id.)

A few months after this Addendum Proposal, in February 2009, Roderick Ladd was serving as the Chair of the Town's Selectboard, as well as a representative to the New Hampshire State Legislature. During this time, Ladd co-sponsored Senate Bill 75 (2009) ("SB 75"), which would change the formula for distribution of highway funds to the District. When considering SB 75, the New Hampshire Senate Public and Municipal Affairs Committee (the "Committee") looked at the Addendum Proposal, original MOU, and First Amended MOU. (Index #19, Ex. G.). Ladd explained to the Committee that, based on the increase in property valuation in Woodsville, the amount of money the Town would provide to Woodsville "annually would be based on the property valuation, as [the Town has] annually on the MS-1 reporting form." (Id., Hr'g Rep. at 4.)

The Legislature enacted a final version of SB 75 in June 2009. (Id., Ex. H.) This version removed the language in the 1990 Legislation requiring that money attributable to the Town "shall not exceed 20 percent of the total amount of expenditures authorized at the town meeting." (Id.) In place of this language, the final version created a formula by which the money appropriated for the distribution of highway funds in the District that is attributable to the Town

shall . . . be determined by a fraction, the numerator of which shall be the assessed valuation of the properties in the district, and the denominator of which shall be the assessed valuation of the properties in the entire town of Haverhill as determined annually from the town MS-1 form. The town of Haverhill shall appropriate the

The actual verbiage of the **FINAL version of SB 75**, lines 11-13, **requires the following:**

"the surveyors or commissioners performing the duties of highway surveyor in the district

**shall give bond to the town to account for all money coming into their hands";**

please see the highlighted area here:

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Nine*

AN ACT changing the formula for distribution of highway funds in the Woodsville fire district and ratifying the establishment of the West Ossipee fire precinct as a village district.

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

1        1 Distribution of Highway Funds in Woodsville Fire District. Amend 1887, 204:3, as amended  
2 by 1899, 196:2 and 1990, 37:1, to read as follows:

3        SECT. 3. Said district at each annual meeting shall elect by ballot a moderator, a clerk, one  
4 auditor, a treasurer, and three commissioners. All of said officers shall be elected by a majority vote  
5 of all the voters present and voting at the annual meeting. Said officers shall exercise in relation to  
6 district meetings the like powers to those of moderator, clerk, and selectmen of towns. The  
7 commissioners shall have within the district all the powers of the mayor and aldermen of any city  
8 respecting highways, sidewalks, and sewers. They shall control and direct the expenditure of all  
9 moneys raised under authority of the district and by the town of Haverhill for expenditure in the  
10 district. They shall have sole authority to appoint a highway surveyor in said district, and in default  
11 of such appointment shall themselves perform the duties of that office. The surveyor or  
12 commissioners performing the duties of highway surveyor in the district shall give bond to the town  
13 to account for all money coming into their hands, and for the proper care and custody of the property  
14 of the town or district which may come into their custody or control, and shall be deemed officers of  
15 the town. Nothing in this act shall be construed to impose any distinct or special liability upon the  
16 district respecting highways within its limits. Vacancies that may occur in the office of  
17 commissioner in the district shall be filled by appointment of the remaining commissioners or  
18 commissioner, but any commissioner appointed to fill a vacancy shall hold office only until the next  
19 annual district meeting. Commissioners shall be residents of the district. The money appropriated  
20 for the distribution of highway funds in the district which is attributable to the town of Haverhill  
21 shall [not exceed 20 percent of the total amount of expenditures authorized at the town meeting] be  
22 determined by a fraction, the numerator of which shall be the assessed valuation of the  
23 properties in the district, and the denominator of which shall be the assessed valuation of  
24 the properties in the entire town of Haverhill as determined annually from the town MS-1  
25 form. The town of Haverhill shall appropriate the percentage represented by such fraction  
26 for distribution to the highway fund in care of the Woodsville fire district commissioners.  
27 The district shall also receive a proportionate share of the state highway block grant funds  
28 received by the town in the previous year based on the population and road mileage of the

Since the funding is based on the annual **Town of Haverhill Road Budget**, a surety bond

is required every year before funds are released.

The disbursement of road monies without bond constitutes a clear violation of the law, and

violation of the Select Board fiduciary responsibility to the residents of the Town of

Haverhill.

Nowhere in the record can I find a statement that a surety bond was ever provided to the

Town of Haverhill. This is a problem.

The purpose of the surety bond is to ensure that there is no financial malfeasance and that

the funding is utilized for its intended purpose.

Please acknowledge receipt of this email.

Thank you for your attention to this very serious matter.

Sincerely,

Marie Francis

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**2.21 MB** 2 embedded images

InkedPAGE 3 OF SUMMARY JUDGEMENT\_LI.jpg 1.06 MB

InkedBOND\_LI.jpg 1.15 MB