

LEGISLATIVE BULLETIN

Bills Galore on January 3 & 4

Bulletin 02, 2018 Session
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As we mentioned last week, both the House and the Senate will meet next Wednesday and Thursday, January 3 and 4, to finish action on retained and re-referred bills from the 2017 session. Both chambers will have a full agenda—the House has over 100 bills to act on, and the Senate over 50.

Many of the bills are on the consent calendar and/or are certain to be killed. A few others were discussed in [last week's Bulletin](#). Beyond those (and the ones discussed separately in this *Bulletin*), there are a few worth mentioning that will affect municipalities:

RGGI Funding. The House will consider two bills, **HB 559** and **HB 592**, dealing with proceeds from the sale of carbon allowances under the regional greenhouse gas initiative (RGGI). **HB 559** would increase to \$5 million (from \$2 million) the amount of those proceeds that is allocated annually for municipal and school district energy efficiency projects. This would be an important benefit to municipalities and taxpayers. Many municipalities have used these funds to improve energy efficiency, thus lowering costs, reducing property taxes, and lowering energy demand. The bill has the support of NHMA, the Business and Industry Association, and the Department of Environmental Services.

Meanwhile, **HB 592** would do the opposite. As introduced, it would have repealed New Hampshire's participation in RGGI altogether. Instead, the Science, Technology and Energy Committee has recommended passing the bill with an amendment; the amendment would leave RGGI in place, but would return 100 percent of the sale proceeds to ratepayers (currently 80 percent of the proceeds go to ratepayers) and eliminate the funding for municipal energy projects. This is a terrible, incredibly short-sighted idea. The average rebate to ratepayers currently is somewhere in the range of \$1.70 a month; increasing this amount by a few dimes will not do anyone any good, and will eliminate funding for very valuable energy efficiency projects that are worth many times the amount invested in them.

In short, **HB 559 is good**, and **HB 592 is bad**. Unfortunately, the ST&E Committee has recommended (by identical 11-10 votes) that the House kill **HB 559** and pass **HB 592** as amended. Please urge your representatives to *vote down the committee recommendations*, then *pass HB 559* and *kill HB 592*.

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GOVERNMENT AFFAIRS CONTACT INFORMATION

- Judy A. Silva**, Executive Director
- Cordell A. Johnston**, Government Affairs Counsel
- Barbara T. Reid**, Government Finance Advisor
- Timothy W. Fortier**, Communications & Member Services Coordinator



25 Triangle Park Drive
Concord NH 03301
Tel: 603.224.7447
Email address governmentaffairs@nhmunicipal.org
Website: www.nhmunicipal.org

Bonding for Broadband. The Senate’s consent calendar includes **SB 170**, addressing the authority of municipalities to issue bonds for broadband infrastructure. We have tried for many years to get such a bill through the legislature, with no success. **SB 170** was re-referred to the Public and Municipal Affairs Committee, which has recommended passing the bill with an amendment that represents a compromise with the telecommunications industry. Very briefly, the amended bill would give municipalities greater flexibility to issue bonds for broadband infrastructure, but only if the municipality first offers service providers the opportunity to engage in a public-private partnership. This seems like a small step forward, but still a step, and NHMA supports the committee recommendation of Ought to Pass with Amendment.

Traffic Control. The House will vote on **HB 193**, which authorizes municipalities to adopt temporary traffic control measures in connection with road construction and maintenance and other projects, subject to limitations. It addresses a concern raised by utility companies and others that some municipalities always require the use of police officers (who are more expensive than flaggers) because they can pass the cost along to the company that is doing the project.

HB 193 would allow the governing body to require the use of uniformed police officers, non-police flaggers, cones or barricades, or “other appropriate devices,” but uniformed police officers could be required “only when necessary for traffic control due to traffic volume, speed, visibility, or other safety concerns, or when qualified flaggers are not available.” In the absence of a policy adopted by the governing body, the Department of Transportation’s guidelines for the use of flaggers and police officers would apply. NHMA is not actively supporting or opposing the bill, but we did participate in a group that drafted the language for the bill two years ago, and we think it is a reasonable compromise. The Transportation Committee has unanimously recommended the bill as Ought to Pass, and it is on the consent calendar.

NHRS Decennial Commission Issues Draft Report

The 2017 Decennial Commission (a commission that convenes once every ten years to review all aspects of the New Hampshire Retirement System) has nearly completed its work, offering numerous recommendations for legislative action on a variety of retirement system issues. The [Commission’s webpage](#) includes a copy of the [draft final report](#), with the final report expected to be posted there soon. The more significant Commission recommendations affecting NHRS employers are:

- Authorize a one-time payment of \$500 per retiree in 2018, and whenever funding is available.
- Authorize layered amortization for all future increases and decreases in the unfunded accrued actuarial liability (UAAL) for a fixed period between 15 and 20 years.

THE EDGE

Bill Descriptions

Readers may notice that when the *Legislative Bulletin* lists the new bills that have been released, the description does not always match the official description included in the bill. Here is an explanation.

Every bill has a title that begins with the words “An act.” To pick one at random, the title of [HB 1307](#) is “An act relative to the default budget in certain towns.”

When we list the new bills, it is not particularly helpful to list only the titles. To identify a bill as “an act relative to the default budget in certain towns” tells the reader what the subject matter is, but not what the bill does.

Instead, we start with the bill’s official analysis, written by the Office of Legislative Services, which appears a few lines below the bill’s title. Using the same example, the analysis of [HB 1307](#) states, “This bill adds a category to the default budget form.”

Sometimes that analysis is sufficient, but other times it needs some tweaking. For example, [HB 1307](#) does more than add a category to the default budget form. Thus, we rewrote the description to say, “[HB 1307](#) provides that the default budget in a town with the official ballot referendum (SB 2) form of town meeting will be reduced by any reduction to an appropriation the governing body has made in the proposed operating budget.”

Continued on next page

- Maintain/retain the current end date of 2039 for the amortization of the existing UAAL.
- Enhance the reporting and compliance criteria to aid the NHRS in monitoring and enforcing the law addressing retired members working part-time after retirement for participating employers.
- Replace the current 32-hour weekly limitation provision with an annual calendar year limit of 1,040 hours and require participating employers to report retiree work hours and compensation on an annual basis.
- Enact a penalty that would authorize the NHRS to suspend the state portion of a retiree’s annuity benefit for a 12-month period if the retiree exceeds the annual 1,040 hour threshold.
- Enact a waiting period so that a retiree may not return to part-time employment for any participating NHRS employer for a minimum of 60 days from the effective date of retirement.
- Reestablish a state subsidy of an unspecified amount for local government contributions.
- Eliminate the reduction in benefit for Group I active employees at age 65 and defer the reduction in benefit to age 67.

Each of these recommendations and others are discussed in detail in the report, along with a review of the legislative changes enacted since the issuance of the 2007 Commission report, as well as a report from the Center for Retirement Research at Boston College titled *The New Hampshire Retirement System: A Look Backward and Forward*. We anticipate several of the Commission’s recommendations will be brought forward during the 2018 session, with several such bills already filed by legislative members of the Commission.

HB 561 “Working -After-Retirement”

As we discussed in last week’s *Bulletin*, [HB 561](#), a bill retained in the Senate Executive Departments and Administration Committee, is the subject of a proposed amendment to include the Commission recommendations above dealing with retirees working after retirement; it will be voted on during the Senate session on January 3. As we noted last week, **HB 561** reduces the hours a retiree may work in a part-time position for an NHRS employer from 32 hours per week to 1,040 per year (an average of 20 hours per week) and enacts the 60-day waiting period recommended by the Commission. We are concerned that these changes may have serious unintended consequences on municipal operations, particularly in smaller communities that rely on experienced NHRS retirees to fill part-time positions. Unlike other Commission recommendations that will allow an opportunity for public testimony during the legislative process, **HB 561** could pass the Senate next week and become law (if the House concurs) without any public input on these changes.

THE EDGE (Continued)

Other times a bill just can’t be summarized in a sentence. [SB 465](#) makes extensive changes to the state’s employment laws, and its 79-word analysis lists several, but not all, of those changes. The analysis therefore is incomplete; but because a complete analysis might take up a whole page, we summarized it by stating, “SB 465 makes numerous changes to state employment laws.” If you want to know more, you’ll need to read the bill (or call us).

Finally, on rare occasions the official analysis is simply wrong. The analysis on [HB 1323](#) states, “This bill exempts certain discussions relating to chief executive officers who are supervised by a public body from public sessions under the right-to-know law.” In fact, the bill does the exact *opposite*. It excludes discussions relative to “chief executive officers” from the permissible bases for *non-public* sessions. Thus, we wrote last week that “HB 1323 provides that discussions of employment matters relating to any public employee who is directly supervised by a public body may not occur in a non-public session”

We don’t claim that our descriptions are perfect, either. We do our best to describe what each bill does, but if you want to be sure, your best bet is always to read the entire bill, and call us if you have questions.



(HB 561— Continued from Page 3)

We understand that at least one floor amendment to **HB 561** may be in the works to address concerns senators are hearing from their municipal constituents, particularly law enforcement. The amendment may raise the annual hours to some amount higher than 1,040 but less than the current amount of 1,664 (*i.e.*, 32 hours per week), and may shorten the waiting period to less than 60 days to avoid lapses in law enforcement certifications.

As we urged last week, if **HB 561** is of concern to your municipality, please let your [senator](#) know before next Wednesday.

Local Funding for Transportation Improvements

Also on the Senate agenda for Wednesday, January 3, is **HB 121**, an **NHMA policy bill** that increases from \$5 to \$10 the maximum amount that may be assessed as part of the annual motor vehicle registration fee for *local* funding to support *local* transportation improvements. Passage of this bill would not raise taxes or fees a single penny, but rather would allow the legislative body of a municipality to decide whether to raise the fee to an amount between \$5 and \$10. It is also the local legislative body that decides whether to assess the fee in the first place and which transportation-related projects the money will be spent on. The maximum amount of this fee has been \$5 since first enacted 20 years ago, so a \$5 increase in the maximum amount is certainly not unreasonable considering the effects of inflation over that time.

The bill passed the House on a voice vote last March, and came out of the Senate Public and Municipal Affairs Committee this fall with a 3-2 recommendation of Ought to Pass. As we urged in last week's *Bulletin*, all municipalities currently assessing this fee, and all those that may want to consider assessing this fee in the future to help fund transportation infrastructure projects, are encouraged to contact your senators *right now*, requesting their support for local control by passing **HB 121**.

House to Vote on Semi-Trailer Registration Bill

Also on the House agenda for January 3 is [HB 579](#), proposing to create a new multi-year registration system for semi-trailers. This bill passed the House last February but was then referred to the House Ways and Means Committee for consideration of the state revenue impact. The bill came out of Ways and Means in October with a 13-10 recommendation of Ought to Pass, with the majority supporting this attempt to siphon semi-trailer license revenue from other states. The minority expressed concern that the bill will penalize New Hampshire citizens, rob cities and towns of revenue, and create an operating deficit at the Department of Safety. NHMA, as well as the City and Town Clerks Association and the Department of Safety, has consistently opposed this legislation. We urge House members to overturn the committee recommendation and *kill HB 579*.

More Bills

Quite a few more Senate bills were released since last week's *Legislative Bulletin*. Those affecting municipalities are listed at the end of this week's edition. It appears that all of the House bills have been released, but there are still a few dozen Senate bills waiting in the wings. If history is a guide, they will dribble out over the next few weeks. We will list them as they arrive.

Hearings Scheduled

This edition contains our first legislative calendar—for the Senate only. On it you will see the municipal bills that have Senate committee hearings scheduled for the week of January 8. We have not seen a schedule for House hearings yet, but there may be one in tomorrow's [House calendar](#), so check there if you can't wait.

SENATE CALENDAR

TUESDAY, JANUARY 9, 2018

ELECTION LAW AND INTERNAL AFFAIRS, Room 102, LOB

- 9:00 a.m. **SB 320**, relative to checklists used at elections.
10:00 a.m. **SB 364**, establishing a commission to study the establishment of a searchable database to verify that each vote was properly recorded.

ENERGY AND NATURAL RESOURCES, Room 103, SH

- 9:15 a.m. **SB 321**, relative to group host net energy metering.
9:30 a.m. **SB 322**, relative to access to a water utility.
9:45 a.m. **SB 366**, relative to members of the site evaluation committee.

JUDICIARY, Room 100, SH

- 10:00 a.m. **SB 387-FN**, relative to liability of governmental units.

WEDNESDAY, JANUARY 10, 2018

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 101, LOB

- 9:00 a.m. **SB 324-FN**, allowing an optional retirement system allowance to include a subsequent remarriage of a divorced retiree.
9:40 a.m. **SB 370-FN**, adopting the emergency medical services personnel licensure interstate compact.

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

- 10:00 a.m. **SB 340**, relative to department of revenue administration guidelines for municipal audits.
10:20 a.m. **SB 341**, allowing municipalities to adopt a property tax exemption for certain disabled veterans.
10:40 a.m. **SB 342**, requiring written disclosure of certain default budget items during the deliberative session.

WAYS AND MEANS, Room 100, SH

- 10:00 a.m. **SB 412**, relative to agritourism.

THURSDAY, JANUARY 11, 2018

JUDICIARY, Room 100, SH

- 9:15 a.m. **SB 386**, relative to access to criminal records.

New Senate Bills

SB 410-FN establishes an annual registration fee for canoes and kayaks. Sen. D’Allesandro of Manchester; **W&M-S**.

SB 412 modifies the definition of agritourism. Sen. Giuda of Warren; **W&M-S**.

SB 417 exempts employees of a recreation camp or a youth skill camp from the laws prohibiting Sunday work. Sen. Bradley of Wolfeboro; **COM-S**.

SB 420 eliminates the exemption for collective bargaining negotiations from the public meeting requirements under the right-to-know law. Sen. Daniels of Milford; **COM-S**.

SB 422 requires an employer to give 14 days’ advance notice of work schedules to its employees. Sen. Feltes of Concord; **COM-S**.

SB 428 amends the intervals for payment of wages to weekly and biweekly employees. Sen. Innis of New Castle; **COM-S**.

SB 430 changes the priority of liens on real estate relative to liability for support of assisted persons. Sen. Kahn of Keene; **COM-S. NHMA Policy**.

SB 438 redefines town meeting to exclude the official ballot voting session, defines that session as an “election,” and transfers authority to postpone a town “election” from the moderator to the secretary of state. Sen. Birdsell of Hampstead; **EL&IA**.

SB 443 permits certain county governments located within the service territory of a municipal electric utility to access certified competitive retail electric supply markets. Sen. Giuda of Warren; **ENR**.

SB 444 excepts class VI roads from the restriction on cutting trees within 150 feet of a public highway. Sen. Giuda of Warren; **ENR**.

SB 446 increases the electric generating capacity of customer generators who may participate in net energy metering. Sen. Avard of Nashua; **ENR**.

SB 450 establishes a commission to study the delegation of authority for the National Pollutant Discharge Elimination System Program to the department of environmental services. Sen. Bradley of Wolfeboro; **ENR**.

SB 453 changes the requirements for rulemaking for a competitive grant program for drinking water protection. Sen. Morse of Salem; **ENR**.

SB 454 requires the department of environmental services to review existing scientific studies and implement rulemaking for ambient water quality standards and maximum contaminant levels for specific perfluorinated chemicals. Sen. Fuller Clark of Portsmouth; **ENR**.

SB 458 provides for the election by a certain surviving spouse of a group II member to purchase up to one month of creditable service. Sen. Birdsell of Hampstead; **ED&A-S**.

(New Bills— Continued from Page 6)

SB 463-FN establishes an architectural paint recycling program. Sen. Feltes of Concord; **ED&A-S.**

SB 465-FN makes numerous changes to state employment laws. Sen. Sanborn of Bedford; **ED&A-S.**

SB 471 authorizes temporary loans from the state to municipalities experiencing exceptional costs due to natural disasters. Sen. Giuda of Warren; **F-S.**

SB 503 allows municipalities to adopt an increased amount for the optional veterans' tax credit. Sen. Gannon of Sandown; **PMA.**

SB 504-FN permits selectmen or a mayor to dispose of liens or tax deeded property other than by sealed bid or public auction if it is in the public interest. Sen. Bradley of Wolfeboro; **PMA.**

SB 505 requires abutter notice of the construction of a crematory. Sen. Giuda of Warren; **PMA.**

SB 506 prohibits amendments to petitioned warrant articles in official ballot referendum (SB 2) towns, except for minor grammatical corrections. Sen. Giuda of Warren; **PMA.**

SB 508 establishes a committee to study the prevalence of post-traumatic stress disorder among first responders. Sen. Avard of Nashua; **PMA.**

SB 509 allows towns and cities to require owners of business property to provide income and expense information for purposes of determining market value. Sen. Fuller Clark of Portsmouth; **PMA.**

SB 510 requires lessors of tax-exempt public property to annually notify the municipality of the lease or other agreement and provide a copy of the lease by April 1. Sen. Fuller Clark of Portsmouth; **PMA.**

SB 511 allows municipalities to adopt a property tax credit for deployed military personnel. Sen. Woodburn of Whitefield; **PMA.**

SB 512 permits the commissioner of transportation to establish compact sections in cities and towns by agreement with the municipalities. Sen. Watters of Dover; **PMA.**

SB 515 adds the sestercentennial to the town and city anniversaries eligible for commemorative license plates. Sen. Ward of Stoddard; **TRANS-S.**

SB 516 prohibits the enforcement of motorcycle noise level restrictions at motorcycle-only roadside checkpoints. Sen. French of Franklin; **TRANS-S.**

SB 522 allows municipalities to decrease speed limits below 25 miles per hour, subject to approval by the commissioner of transportation. Sen Fuller Clark of Portsmouth; **TRANS-S.**



2018

Upcoming NHMA Workshops and Webinars

- Jan. 13 2018 Moderators Workshop for SB 2 Town Meeting
- Jan. 17 NHMA Webinar—2018 Legislative Preview
- Jan. 24 NHMA Webinar—Preparing for Town Meeting
- Feb. 17 2018 Moderators Workshop for Traditional Town Meeting
- Feb. 21 NHMA Webinar—Election Law Changes in 2018

Please register online through our website (Scroll down on left to Calendar of Events—www.nhmunicipal.org.)

