

LEGISLATIVE BULLETIN

A Skunk at the (Retirement) Garden Parties

This week the House Executive Departments and Administration Committee held hearings on several retirement bills that would increase benefits paid to New Hampshire Retirement System (NHRS) retirees—and increase local property taxes.

HB 1341 would increase benefits for NHRS group II members (police and fire) by reversing several of the retirement reforms enacted in 2011. The fiscal note for the bill as introduced estimated the proposed changes would increase the current **\$5 billion** NHRS unfunded liability by **\$142 million**, which would be paid by employers over the next twenty years. The bill sponsor offered an amendment to modify some of those changes, thereby reducing the fiscal impact, and to require the state to pay 15 percent of the employer costs for local police and firefighters. Unfortunately, there was no fiscal note for the amendment, so the monetary impact of that proposed amendment is unknown.

NHMA testified in opposition to the bill based on our member-enacted policy to oppose legislation that expands pension benefits and leads to increased employer costs. Based on the original version of the bill (not the amendment), employer pension costs for police and fire would increase by approximately 15 percent. We also expressed extreme skepticism about the provision requiring the state to fund future pension costs, especially when 1) this is not a budget year and 2) several bills to restore a portion of the state’s previous 35 percent retirement contribution for teachers, police, and firefighters have been killed in recent years.

Not surprisingly, the double-sized hearing room was packed to standing room only with police and firefighters in support of the bill, and only NHMA (*i.e.*, the skunk) in opposition. Much of the supporters’ testimony focused on recruitment and retention issues. NHMA acknowledged recruitment challenges facing many law enforcement agencies, but this bill will do nothing to address those challenges, as the pension benefit increases would not apply to new hires.

Based on questions and comments from committee members, we are concerned that the bill will come out of the committee with an Ought to

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GOVERNMENT AFFAIRS CONTACT INFORMATION

Margaret M.L. Byrnes,
Executive Director

Cordell A. Johnston,
Government Affairs Counsel

Barbara T. Reid,
Government Finance Advisor

Natch Greyes,
Municipal Services Counsel

Timothy W. Fortier,
Communications Coordinator



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

Pass recommendation. Fortunately, if passed by the House, the bill will go to the Finance Committee, where we are hopeful the fiscal impact on both the state and local government employers will be examined more closely.

HB 1205 would change the time of the 10 percent NHRS pension reduction for group I members (employees and teachers) from age 65 to the member's full retirement age under Social Security (up to age 67 depending on year of birth). This bill would increase the NHRS unfunded liability by **\$37 million**, also being paid over 20 years through increased employer rates. Only a handful of supporters attended this hearing, and NHMA again opposed the bill due to the increase in employer costs.

As we urged in last week's Bulletin, please contact members of the [Executive Departments and Administration Committee](#), and your own representatives, to explain how retirement system costs currently affect municipal budgets and to encourage restraint in increasing the NHRS unfunded liability by *opposing* bills such as **HB 1341** and **HB 1205** that increase pension costs.

Housing Appeals Board, Again

Many readers are familiar with the saga of the housing appeals board, which the legislature created last year, but with a delayed effective date of July 1, 2020. We won't rehash the sordid history of last year's bill, but if you want a brief summary, you can find it in [last year's Legislative Bulletin #26](#).

The housing appeals board will be a three-person board, appointed by the supreme court, that will hear appeals from local land use board decisions on applications dealing with housing development. Appellants will have a choice of taking their appeals either to the board or to the superior court. The idea is to have a forum that will decide appeals more quickly, and possibly (but not likely) less expensively.

NHMA never took a position on the housing appeals board legislation, although we did suggest several changes that were adopted. However, very late in the process—too late, in fact—we began hearing from some of our members who were very much opposed to the idea. More than a few legislators, primarily House members, were also upset with the way the Senate forced the legislation through the process without giving the House an opportunity to hear the bill.

There are now two bills that would disband the housing appeals board before it is ever established, and both are scheduled for hearings next week. **SB 735** would simply repeal the statute that establishes the board. **SB 721** would do the same, but it also would substitute an expedited superior court review for planning board appeals. For all appeals from a planning board decision, the court would be required to hold a hearing on the merits within 90 days after receiving the petition, and to issue a decision within 60 days after the hearing.

We continue to hear from our members about this issue, and there is almost uniform opposition to the housing appeals board. We still believe an expedited review is not a bad idea, but we are persuaded that the review should be performed by the superior court, not a newly created board. Municipal officials have more confidence in a judge, and—although this is not really our issue—the state could create one more judge position for much less than what the housing appeals board would cost.

SB 721 comes closer to accomplishing the objective, although we believe it needs some work. (The bill provides an expedited process for all planning board appeals, but a zoning board appeal would be expedited only if it involves denial of an accessory dwelling unit application. We're not sure why; and the process for such appeals is a bit irregular.) We will offer comments on both bills at the hearings.

Both bills will be heard by the [Senate Judiciary Committee](#) on **Tuesday, January 28, in State House Room 100**. The hearing on **SB 735** is scheduled for **9:55 a.m.**, and **SB 721** is scheduled for **10:15 a.m.** If you have an opinion on this issue, please attend the hearing or contact members of the committee (and us).

Hearing on Pollution Control Exemption

Does that headline sound familiar? Yes, one of our favorites is back. **HB 1661**, scheduled for a hearing next week, would eliminate the “pollution control exemption” for any electric generating plant that uses fossil fuels or generates high-level radioactive waste.

For those unfamiliar with this issue, under [RSA 72:12-a](#), a property owner who installs equipment for “reducing, controlling, or eliminating any source of air or water pollution” may have the value of the equipment exempted from local property taxation. This is a state-mandated exemption; the municipality has no say. The exemption dates from the 1950s and was enacted to encourage businesses to install pollution control equipment voluntarily.

Much has changed since the 1950s, and pollution control is no longer a voluntary matter—it is mandated by state and federal law. Of the companies that currently get the exemption—most of which are big utilities—almost all installed their pollution control equipment to comply with state or federal environmental mandates. Thus, they are getting a property tax exemption for doing something they are legally required to do. This is like getting paid—by other taxpayers!—to obey traffic laws or to refrain from stealing.

The exemption simply makes no sense, yet the many efforts over the years to repeal it have gone nowhere. This year’s effort is narrower—it does not repeal the exemption entirely, but it eliminates it for nuclear and fossil fuel generating plants. The argument for this bill *should* be self-evident: Why on earth should municipalities be forced to exempt a portion of a coal or nuclear power plant from property taxation just because federal or state law requires the facility to have pollution control measures?

The hearing is scheduled for **Tuesday, January 28, at 1:30 p.m., in LOB Room 304**, before the [House Science, Technology and Energy Committee](#). Please consider attending or contacting members of the committee and asking them to **support HB 1661**.

PFAS Funding

On Tuesday the Senate Energy and Natural Resources Committee heard testimony on **SB 496**, an **NHMA policy bill** that provides state funding toward the costs of compliance with new water quality standards regarding perfluorochemicals, generally referred to as PFAS. The bill as drafted would require the state to pay 40 percent of the incremental costs associated with capital projects needed for PFAS compliance and costs for disposal of contaminated PFAS media. Several municipal officials testified on the bill, explaining the estimated impact these costs will have on utility rate payers and property taxpayers. It was evident that many senators support some form of assistance to municipalities in addressing PFAS contaminations in drinking water and wastewater.

Additionally, **SB 641**, which establishes a PFAS fund and enables the Department of Environmental Services to make grants, loans, contracts, and reimbursements from the fund for projects related to PFAS remediation, has a hearing scheduled on **Tuesday, January 28, at 1:45 p.m.** in the Senate Finance Committee, **State House Room 103**. Finally, **HB 1603** had a work session this week to amend the language of that bill by incorporating provisions addressed in the Senate bills dealing with the same subject. We expect to see a draft amendment on **HB 1603** early next week.

With multiple PFAS bills—**SB 496** and **SB 641** in the Senate and **HB 1603** in the House—we are encouraged by the legislative attention this important issue has received thus far this session.

Affordable Housing Bills

On Tuesday the House Municipal and County Government Committee heard **HB 1629** and **HB 1632**, two bills addressing affordable housing in New Hampshire, which we wrote about in [Legislative Bulletin #4](#).

Our primary concern—and source of opposition—is the provision in **HB 1629** requiring land use board members to complete mandatory training and pass a test. Under the current language in the bill, board members who do not fulfill the training and testing requirements are prohibited from voting on an application.

NHMA believes in the importance of training for all municipal officials; this is a huge component of the services we provide to our members. We also support the state’s providing more resources and support to municipal officials. But land use board members, like most who serve in local government, are volunteers. Requiring them to meet a certain educational standard and pass a test is an unrealistic burden and is very likely to reduce volunteerism, an issue that already exists in many communities.

At the hearing, the proposed training was described as “enhancing local control.” However, mandated training that would disqualify a duly appointed or elected land use board member from performing his or her duties is an erosion of local control; it is also not a solution to New Hampshire’s low vacancy rates. Preventing board members from voting on an application will also create situations where land use boards cannot meet a quorum and act on an application, delaying the approval process for a development—a result that runs counter to the goals of the legislation.

HB 1632 creates various affordable housing incentives, none of which appear harmful to municipalities, and some of which may create helpful tools for towns and cities. However, we would like to see more incentives that flow directly to municipalities, and we were grateful that some committee members mentioned other roadblocks affecting housing and development, such as municipal infrastructure needs, including water and sewer systems.

The committee has formed a subcommittee to work on these bills. The subcommittee met on Wednesday, and its members appear to agree that mandatory training is not a good idea. That issue is still alive, but the subcommittee seems to be moving in a good direction.

The subcommittee also discussed another of our concerns, the provision in **HB 1629** stating that if a municipality allows increased density or other incentives for elderly housing developments, it must allow the same incentives for all other types of housing development. It was suggested, and the subcommittee seemed to agree, that this should be changed so that the required allowance would be only for workforce housing, not for all housing, given that workforce housing is the point of the bill. There is no reason to force municipalities to create incentives for luxury housing—the real estate market already provides plenty of incentives.

The subcommittee will meet again next **Wednesday, January 29**. NHMA will continue working with the subcommittee and other interested parties to create a workable solution that helps municipalities address the housing crisis through a positive collaboration with the state and others. Anyone who has suggestions for improving the bills is encouraged to contact NHMA’s government affairs staff.

Tax Exemptions, Anyone? Everyone?

House and Senate committees next week will hear a slew of bills that would establish, amend, or study exemptions from local property taxes and, in one case, from the timber tax. There are such bills every year, but the number this year seems unusually large. The following bills will have hearings in the House Municipal & County Government Committee on **Tuesday, January 28, in LOB Room 301:**

- **9:30 a.m. – [HB 1154](#)** would allow (not require) a municipality to exclude retirement savings held in IRAs or other qualified pension plans from the determination of net assets for purposes of the exemptions for the disabled, hearing impaired, and elderly. The income from such plans, however, would continue to be included as income for the applicant.
- **10:00 a.m. – [HB 1155](#)** would exempt from the timber tax the first 10,000 board feet of logs cut from a person’s residential property if the timber cut is not for sale purposes.
- **10:30 a.m. – [HB 1197](#)** would exempt all totally and permanently disabled veterans whose disabilities are service-connected (except those who were dishonorably discharged) from taxation on their homesteads. Currently the exemption is limited to anyone who is a double amputee, is paralyzed, or is seriously visually impaired and has a specially adapted homestead acquired with the assistance of the Veterans Administration.
- **11:00 a.m. – [HB 1510](#)** would allow municipalities to adopt an optional tax exemption for accessory dwelling units (ADUs). The exemption would be for the amount by which the assessed value of the property with the ADU exceeds the value without it. To be eligible, the ADU must comply with municipal ordinances and regulations and must be registered with the municipality as a long-term rental leased to a non-family member.
- **1:00 p.m. – [HB 1125](#)** would allow municipalities to adopt an optional tax exemption, in an amount to be determined by the municipality, for volunteer firefighters and volunteer emergency medical personnel. To qualify the person would have to be a resident of the state and engaged at any point during the taxable period as a volunteer firefighter or emergency medical personnel.
- **1:30 p.m. – [HB 1305](#)** would require (not allow) a municipality to exclude income from a home-share arrangement (in which the applicant receives assistance with housework or other activities in exchange for reduced rent) from the determination of net assets for purposes of the exemptions for the disabled, hearing impaired, and elderly. (Note: This does not seem to make sense. We believe the intent may be to exclude that income from the net income limits, not from the net asset limits.)

The following bills will have hearings in the House Municipal & County Government Committee on **Wednesday, January 29, also in LOB Room 301:**

- **9:30 a.m. – [HB 1210](#)** would grant a property tax exemption to every owner of residential property equipped with an energy storage system. The exemption would be for the value of “the first 1,000 mwh of electricity storage.” Note that *this is not a local option*—it is a mandated exemption that would apply in every municipality.
- **10:30 a.m. – [HB 1406](#)** would make a minor change to the local option exemption for solar energy systems, requiring that the system must be used for heating or cooling, heating water for, or providing electricity for an *on-site* building. The current law merely refers to “a building.”

- **11:00 a.m. – [HB 1139](#)** would establish a committee to study the eligibility criteria for property tax credits, exemptions, and deferrals available to individuals with limited income and the impact of such credits, exemptions, and deferrals on municipalities.

Lower Threshold for Bond Approval

[SB 563](#) would require a three-fifths majority vote for the approval of a bond or note in all municipalities except those with a charter that requires a two-thirds vote. Under current law, a two-thirds vote is required unless a town has adopted the official ballot referendum (SB 2) form of town meeting, in which case the requirement is only three-fifths. This bill would make the requirement uniform at three-fifths; so, for the approximately two-thirds of towns that have a traditional town meeting, approval of a bond would be somewhat easier.

NHMA has no position on this bill, but we can imagine that many municipal officials may. The hearing on the bill is scheduled for next **Wednesday, January 29, at 10:15 a.m. in LOB Room 102**, before the [Senate Election Law and Municipal Affairs Committee](#).

HOUSE CALENDAR

TUESDAY, JANUARY 28, 2020

ELECTION LAW, Room 308, LOB

- 10:30 a.m. **HB 1665-FN-A**, establishing an independent redistricting commission. **NHMA Policy.**
 11:00 a.m. **HB 1390**, relative to access to ballots and verification counts of machine-counted ballots.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB

- 1:00 p.m. **HB 1326-FN**, requiring the independent investment committee of the New Hampshire retirement system to report investment fees.

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Room 205, LOB

- 2:00 p.m. **HB 1428-FN-L**, relative to inspections for bedbugs.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 9:30 a.m. **HB 1154**, enabling municipalities to exclude principal of retirement and pension accounts from assets used for eligibility for property tax exemptions.
 10:00 a.m. **HB 1155-FN-L**, relative to exemptions from timber taxes for certain residential cutting.
 10:30 a.m. **HB 1197**, exempting disabled veterans from the payment of property taxes.
 11:00 a.m. **HB 1510-L**, enabling municipalities to adopt a property tax exemption for qualifying accessory dwelling units.
 1:00 p.m. **HB 1125**, enabling municipalities to adopt an exemption from property taxes for volunteer firefighters and volunteer emergency medical personnel.
 1:30 p.m. **HB 1305-L**, relative to consideration of home-share income.

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

- 10:00 a.m. **HB 1503**, establishing a committee to study and monitor air emissions of PFAS.
 1:30 p.m. **HB 1661-FN-L**, relative to the exemption from property taxes for water and air pollution control facilities.

WEDNESDAY, JANUARY 29, 2020

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

- 2:00 p.m. **HB 1524**, relative to how law enforcement shares personal information about certain non-violent offenders.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 307, LOB

11:00 a.m. **HB 1221**, relative to privacy for an employee's personal financial and credit information.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

9:30 a.m. **HB 1210**, establishing a property tax exemption for energy storage systems.

10:00 a.m. **HB 1479**, relative to municipal energy commissions.

10:30 a.m. **HB 1406**, relative to the property tax exemption for solar energy systems.

11:00 a.m. **HB 1139**, establishing a committee to study eligibility criteria for property tax credits, exemptions, and deferrals available to persons with limited income and the effect of such credits, exemptions, and deferrals on municipalities.

RESOURCES, RECREATION AND DEVELOPMENT, Rooms 201-203, LOB

9:30 a.m. **HB 1316**, relative to OHRV trails known as "Ride the Wilds."

11:45 a.m. **HB 1426**, requiring an off highway recreational vehicle club to have certain tests performed on a rail trail prior to use as an OHRV trail.

2:15 p.m. **HB 1165**, prohibiting ATVs on a rail trail in Gorham.

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

10:00 a.m. Continued public hearing on **HB 1481**, relative to the net metering cap for customer-generators.

STATE-FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 206, LOB

9:30 a.m. **HR 12**, urging Congress to declare per-fluoroalkyl and polyfluoroalkyl substances (PFAs) a superfund chemical and provide sufficient programming and funding for education, treatment, and remediation of the effects of PFAS.

TRANSPORTATION, Rooms 201-203, LOB

9:00 a.m. **HB 1156**, establishing a committee to study minimizing the use of public roads in the OHRV trail system known as Ride the Wilds in Coos county.

10:15 a.m. **HB 1438**, permitting OHRVs on certain public ways.

1:00 p.m. **HB 1427**, removing the authorization for OHRV use on certain sections of state highway.

THURSDAY, JANUARY 30, 2020

ASSESSING STANDARDS BOARD (RSA 21-J:14-a), White Mountain Regional High School, 127 Regional Road, Whitefield

5:30 p.m. Public hearing.

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Room 205, LOB

10:00 a.m. **HB 1223**, relative to schedule I and unscheduled drug take-back programs.

TUESDAY, FEBRUARY 4, 2020

JUDICIARY, Room 208, LOB

1:45 p.m. **HB 1176**, establishing a committee to study the attorney general's authority over certain municipal and county employees.

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

11:00 a.m. **HB 1414**, relative to notification to abutters of an intent to cut timber.

1:45 p.m. **HB 1537**, relative to standards for perfluorochemicals in drinking water and ambient groundwater.

WEDNESDAY, FEBRUARY 5, 2020

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. **HB 1663-FN-A-L**, relative to the legalization and regulation of cannabis and making appropriations therefor.

SENATE CALENDAR

TUESDAY, JANUARY 28, 2020

ENERGY AND NATURAL RESOURCES, Room 103, SH

- 9:30 a.m. **SB 628-FN**, relative to the authority of the department of environmental services for emergency action at hazardous dams.
- 10:15 a.m. **SB 713-FN**, relative to the municipal winter maintenance certification program.

FINANCE, Room 103, SH

- 1:45 p.m. **SB 641-FN**, establishing a state assistance to public drinking water systems program and fund.

JUDICIARY, Room 100, SH

- 9:55 a.m. **SB 735-FN**, repealing the housing appeals board.
- 10:15 a.m. **SB 721-FN-A**, relative to court review of planning board decisions and making an appropriation therefor.

WEDNESDAY, JANUARY 29, 2020

ELECTION LAW AND MUNICIPAL AFFAIRS, Room 102, LOB

- 9:00 a.m. **SB 630-FN**, relative to removing names from the voter checklist.
- 9:30 a.m. **SB 425-L**, prohibiting registers of deeds from charging fees to municipalities for copies of documents used for tax purposes.
- 9:45 a.m. **SB 560-L**, relative to placing Keno on a warrant.
- 10:15 a.m. **SB 563**, relative to authorizing the issuance of bonds or notes by a municipality.
- 10:45 a.m. **SB 562**, relative to a property tax relief program for repairs and updates of affordable older homes.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 101, LOB

- 10:20 a.m. **SB 633**, relative to recovery housing.

WAYS AND MEANS, Room 100, SH

- 9:00 a.m. **SB 616**, establishing a committee to study the meals and rooms tax distribution formula.

THURSDAY, JANUARY 30, 2020

JUDICIARY, Room 100, SH

- 1:30 p.m. **SB 651-FN**, prohibiting collective bargaining agreements that require employees to join or contribute to a labor union.

TUESDAY, FEBRUARY 4, 2020

TRANSPORTATION, Room 103, LOB

- 1:30 p.m. **SB 614**, exempting the department of transportation from the notice requirement for lessors of real or personal property owned by the state or its political subdivisions.

2020 NHMA UPCOMING MEMBER EVENTS	
Jan. 29	Webinar: Is Recycling Still Worthwhile in New Hampshire?
Feb. 12	Webinar: The Role of Municipalities in Asbestos Regulation Today!
Feb. 17	Presidents' Day (NHMA Offices Closed)
Feb 26	Webinar: Retooling Your Zoning to Improve Housing Affordability and Supply
To register for an upcoming event, go to our website and click on the Events & Training tab at the top to access the Full Calendar.	
For more information, please call NHMA's Workshop registration line: (603) 230-3350.	