

# LEGISLATIVE BULLETIN

## Costly Retirement Bills Move Forward

On Wednesday the Houses Executive Departments and Administration Committee recommended Ought to Pass on both [HB 1341](#), increasing benefits for certain New Hampshire Retirement System (NHRS) group II members (police and firefighters), and [HB 1205](#), delaying the 10 percent reduction for group I members (employees and teachers) until full Social Security eligibility age. As we reported in [Bulletin #5](#), [HB 1341](#) had an initial price tag of **\$143 million**. The committee adopted an amendment (2020-0137h) that would lower this cost by an indeterminable amount and would require the state to pay 15 percent of the pension costs for local police and firefighters to offset the increase in employer contribution rates. As mentioned in [Bulletin #5](#), we continue to be quite skeptical about the state's paying future pension costs for local governments, as we have watched, in the recent past, several bills proposing similar state funding die a quick and inconsequential death. Whatever the cost of [HB 1341](#), it will most likely be paid by employers over the next 20 years through increased pension contribution rates.

[HB 1205](#) will cost employers **\$37 million** and will also be paid by increased employer contribution rates over the next 20 years. The pension cost increases from these two bills will be *in addition to* the increase that employers will see July 1, 2021, due to the cost-of-living adjustment enacted last year in [Chapter 340 \(HB 616\)](#). The estimated cost of that increase alone to local governments (municipalities, counties and school districts) is in excess of **\$100 million** over 20 years. **All of this adds to the current NHRS unfunded liability of \$5 billion! When does the legislature plan to stop piling on?**

But wait – there's more! The committee also recommended Ought to Pass on [HB 1235](#), which creates a study committee specifically charged with addressing the so-called erosion of pension benefits, seeking recommendations to enhance pension benefits for current and future employees. That bill, as amended by the committee, seeks input from a myriad of employee groups, but no input from those required to pay for any recommended enhanced benefits.

All three bills—[HB 1341](#), [HB 1205](#), and [HB 1235](#)—head to the full House for a vote later this month. Please contact your [representative\(s\)](#) and urge them to ***oppose these bills by voting "No"*** on the committee recommendation of Ought to Pass.

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## Another Zoning Mandate: “Tiny Houses”

The Senate Election Law & Municipal Affairs Committee will hear testimony next Wednesday on [SB 482](#), which would require municipalities to allow “tiny houses”—including “tiny houses on wheels”—as a matter of right in all zoning districts that permit single-family dwellings. The bill defines a tiny house as “a structure intended for year-round occupancy that meets the requirements of the state building code, . . . and is of a smaller square footage than may be normally permitted by local zoning requirements, and may include single-room structures, and which is built on either a permanent foundation or on a chassis that is suitable for registration for transport on public highways of the state.” NHMA will *oppose* this bill as another effort by the state to interfere in local zoning.

This is one of at least three bills this year that seek to require municipalities to allow certain uses, without limit. (The others are [SB 458](#), discussed below, and [HB 1709](#), which would require family day care homes to be allowed in all residential districts.)

Other than the town meeting, there is probably nothing that is more fundamentally a local responsibility than zoning. Every municipality is different, and local residents are in the best position to determine what uses should be allowed, and where. For decades the legislature has been reluctant to engage in “statewide zoning”; it has imposed zoning mandates only when there was a compelling need and widespread demand that was not being accommodated. Thus, it has required municipalities to allow “reasonable opportunities” for the development of manufactured housing and affordable housing, including multi-unit rental housing. It has also required the allowance of accessory dwelling units—largely a subset of affordable housing—but subject to many permissible restrictions. Finally, municipalities must allow “the tilling of soil and the growing and harvesting of crops”—satisfying a basic human need—in all districts.

And that’s it. Otherwise, the legislature has left municipalities alone, recognizing that residents understand their needs better than the state.

There is no compelling need or widespread demand for “tiny houses.” Although a popular TV show has drawn attention to the subject, the number of people who would actually be willing to live in a space less than 400 square feet is, well, tiny. The market is essentially limited to young, single adults with no children, no pets, and no plans for the same.

If few people are likely to buy them, why should municipalities worry about their being required? Because it would mean that every municipality would need to spend time reviewing and revising its zoning ordinance to accommodate tiny houses, even if they will never be built; and because every time the state issues a mandate, the next one becomes easier to rationalize.

NHMA has nothing against small houses. (The author of this article lives in a 544-square-foot house.) They are a good idea for many reasons, and we certainly encourage municipalities to consider *voluntarily* loosening their zoning ordinances to allow smaller homes. But there are plenty of good ideas—yurts, tree houses, [shipping container houses](#); not all of them should be put into a zoning mandate. Requiring every municipality in the state to amend its ordinance to accommodate what is likely to be a fad is a big leap down a slippery slope.

The hearing on [SB 482](#) is scheduled for **Wednesday, February 12, at 10:00 a.m. in LOB Room 102**. Please attend if you can; if you cannot, please contact members of the [Election Law & Municipal Affairs Committee](#) and your own senator and urge them to **oppose SB 482**.

## Local Officials Oppose Short-Term Rental Mandate

A large contingent of local officials turned out on Wednesday to oppose [SB 482](#), the bill that would require all municipalities to allow short-term rentals, without limitation, in all zoning districts. Officials from Laconia, Hanover, Hampton, Portsmouth, Conway, Jackson, Stratham, Milford, and Exeter (we may have missed a few) spoke or signed in opposition to the bill, and we know that many others have contacted members of the Election Law & Municipal Affairs Committee and/or their own senators. Opposition also came from the New Hampshire Lodging and Restaurant Association and from a bed & breakfast owner, who were understandably concerned about a law that would exempt competing businesses from the same ordinances and regulations they must follow.

Local officials at the hearing talked about the progress they are making in amending their zoning ordinances to *accommodate* (not prohibit) short-term rentals, within reason. As many witnesses stated, local citizens and local officials are in the best position to balance the interests of property owners—both those offering the rentals and their neighbors—and of the general public.

The bill's prime sponsor offered an amendment at the hearing that would, among other things, restrict the exempted short-term rental properties to single- and two-family dwellings, so multi-unit dwellings would still be subject to local regulation. That is an improvement, and as we said, we appreciate the effort at compromise; but it would still require a town to allow, for example, someone who owns a house on a steep hill, on a narrow class VI road, in a quiet, rural neighborhood, to rent out his house to a different group of strangers every night of the year, bringing excessive traffic, noise, and general disruption to the neighborhood. So long as no municipal ordinances are violated, the town would be helpless to do anything.

Other than the bill's sponsors, the only people who testified in favor of the bill were representatives of the New Hampshire Association of Realtors and of the Consumer Technology Association. The latter organization is “the trade association representing the \$398 billion U.S. consumer technology industry.” Its members include companies like Airbnb, Expedia, and TripAdvisor. Noticeably absent was even one person who claimed to have been unable to rent a property because of municipal regulations. So who, exactly, is going to be helped by this legislation?

As we acknowledged in last week's Bulletin, short-term rentals have a long history in New Hampshire, and they have rarely been a problem. What changed to cause the current uproar? Did municipalities suddenly have a change of heart and begin enacting anti-short-term rental ordinances?

No. What changed is that Airbnb and similar companies arrived, encouraging property owners to advertise their properties without regard to local ordinances or the legitimate concerns of their neighbors. Conflicts arose when municipalities enforced *existing* ordinances that were now being violated with increasing frequency, or when certain business organizations tried to take preemptive action, telling towns their ordinances were invalid.

This is a familiar pattern—a big company wants to do business in New Hampshire and is frustrated when local regulations don't fit its “business model,” so it pleads with the legislature to preempt those regulations. If this bill passes without significant amendment, the beneficiaries will be companies like Airbnb and Expedia, absentee real estate investors, and the agents who market to them. The losers will be municipalities and the property owners they are trying to protect.

There may still be room for a compromise on this bill, but we do not believe it can include any prohibition on regulation of short-term rentals. Please continue to contact your senators and members of the [Election Law & Municipal Affairs Committee](#) and share your concerns about this bill.

## Cybersecurity Bill Creates New Mandates

On Wednesday the Senate Elections and Municipal Affairs Committee will hold a hearing on **SB 694**, which would, among other provisions, authorize the Department of Information Technology (DoIT) to set minimum cyber security standards for municipalities and require them to conduct and report self-assessments to DoIT.

Under the bill, DoIT's standards would be based on "CIS Controls," created by the Center for Internet Security. Each municipality would be required to conduct and report its self-assessment on a schedule set by DoIT, which would then provide a "score" for municipal compliance and make suggestions for improvement.

Although the bill does not propose a penalty for a low score or failure to report, it will require municipal staff and expense to conduct these self-assessments. And while we do not object to DoIT's providing suggested standards, best practices, and education to local officials, many municipalities are already working with information security experts, including their property and liability insurers, to implement cybersecurity controls.

What municipalities need are education, support, and resources—not mandates. The bill would provide additional money for new positions within DoIT, but no funding is proposed to help municipalities take on their new responsibilities or implement improved processes. One section of the bill does require DoIT to communicate a list of all statewide contracts for related products and services "to mitigate any burden on political subdivisions" and "to lower the cost of technical and communication products and services that may be required." This may help some municipalities obtain lower costs on these types of contracts, but it does not help municipalities already working with other providers or with their own in-house staff.

NHMA will oppose the mandate for self-reporting, while encouraging collaboration between the state and local government on this issue.

The hearing on **SB 694** is scheduled for **Wednesday, February 12, at 9:30 a.m. in LOB Room 102**. Please attend the hearing if you can, or contact members of [the committee](#) and your own senator to provide comments on the bill.

## PFAS Funding

On Tuesday the Senate Energy and Natural Resources Committee unanimously recommended [amendment 2020-0458s](#) to **SB 496**, an **NHMA policy bill** providing state financial assistance toward the costs of meeting water and wastewater quality standards associated with perfluorchemicals known as PFAS. The amendment, which replaces the entire bill, authorizes the state treasurer to issue up to **\$50 million** in bonds against the credit of the state for the sole purpose of providing low-interest loans to water and wastewater systems for PFAS remediation projects. The loans, which will be available for the total cost of an eligible PFAS remediation project, will be administered by the Department of Environmental Services (DES). The amendment provides that 10 percent of the loan principal (up to \$5 million) will be available for loan forgiveness based on the same loan forgiveness criteria used for the state drinking water and clean water revolving loan funds.

Money received from judgments or settlements resulting from state lawsuits against the manufacturers of PFAS will be used to grant further loan forgiveness, up to 50 percent of the loan principal. The amendment also amends RSA 507-B:9 to limit municipal liability related to PFAS contamination.

The amendment received bi-partisan support from the committee and effectively provides access to a very large pot of money relatively soon (60 days after final passage of the bill) for municipalities and other public water and wastewater systems to pay for PFAS remediation projects. **SB 496** as amended is a critical companion bill to **SB 287**, which proposes to place into statute the PFAS standards enacted last fall by DES through administrative rules. Both bills are on the Senate agenda for **Thursday, February 13**.

We thank the sponsors of **SB 496** and its amendment, the members of the Senate Energy and Natural Resources Committee, and other senators who were instrumental in pulling together this funding proposal. Please encourage your [senator](#) to support the committee recommendation of Ought to Pass on **SB 496**.

## Local Option Transportation Improvement Fee

On Wednesday the Senate Election Law and Municipal Affairs Committee held a hearing on **SB 667**, an **NHMA policy bill** that raises from \$5 to \$10 the cap on the local option transportation improvement fee that may be assessed at the time of annual vehicle registration. The committee was interested to hear how the revenue from this fee is being used to fund transportation-related improvements and services. If you are one of the 35 municipalities that benefit from this fee and were unable to attend the hearing or submit written testimony, there is still time to do so. The committee will likely vote on **SB 667** next Wednesday, so please email the committee before then by using the link on the [committee's web page](#) – and remember to send a copy to NHMA at [governmentaffairs@nhmunicipal.org](mailto:governmentaffairs@nhmunicipal.org).

## Property Tax-Related Bills

On **Wednesday afternoon, February 12**, the House Municipal and County Government Committee will hold hearings on the following property tax-related bills:

- **1:00 p.m.** – **HB 1533**, which limits property tax increases to no more than one percent for residential property owners meeting certain age, veteran status, or Social Security disability criteria.
- **1:30 p.m.** – **HB 1490**, which establishes a legislative committee to study the taxation of property owners on private roads.
- **2:00 p.m.** – **HB 1311**, which authorizes the Department of Revenue Administration (DRA), upon request of a municipality, to adjust the semi-annual or quarterly rate of taxes to be raised in certain circumstances. The bill was requested by DRA.
- **2:30 p.m.** – **HB 1421**, which requires the board of selectmen, Board of Land and Tax Appeals, and superior court to use the weighted mean equalization ratio established by DRA in determining abatement appeals.
- **3:00 HB** – **1467**, which authorizes municipalities to classify property as residential, commercial or industrial and to establish higher rates of taxation for commercial and industrial properties, with certain limitations.

## Printable PDF of the Bulletin

If you are receiving this by e-mail, you may not be aware that a printable version of this Bulletin is available on NHMA's website. Go to [www.nhmunicipal.org](http://www.nhmunicipal.org), and near the top of the page, hover over the "Advocacy" tab, then click on "Legislative Bulletins." Under "2020" you will see a link to "Download PDF" for each edition of the Bulletin. Click on the link and you will get the PDF.

## HOUSE CALENDAR

### WEDNESDAY, FEBRUARY 12, 2020

#### **CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB**

1:00 p.m. **HB 1663-FN-A-L**, relative to the legalization and regulation of cannabis and making appropriations therefor.

#### **ENVIRONMENT AND AGRICULTURE, Room 303, LOB**

10:00 a.m. **HB 1195**, relative to pesticide use and notification of such use on community playgrounds.

#### **JUDICIARY, Room 208, LOB**

10:00 a.m. **HB 1226**, prohibiting surveillance by the state on public ways or sidewalks.

10:30 a.m. **HB 1236**, relative to the expectation of privacy.

#### **MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB**

1:00 p.m. **HB 1533-L**, limiting the increase in property taxes for certain persons.

1:30 p.m. **HB 1490**, establishing a committee to study the taxation of property owners on private roads.

2:00 p.m. **HB 1311**, relative to the semi-annual or quarterly collection of taxes in certain municipalities.

2:30 p.m. **HB 1421-L**, relative to the application of the equalization rate to be used for the calculation of a property tax abatement by the New Hampshire board of tax and land appeals, the superior court, and all cities, towns, and counties.

3:00 p.m. **HB 1467-L**, relative to the taxation of commercial and residential property.

### THURSDAY, FEBRUARY 13, 2020

#### **RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB**

9:00 a.m. **HB 1252-FN**, relative to large groundwater withdrawals from replacement wells.

9:30 a.m. **HB 1347**, addressing impacts to other water users from new sources of water for community water systems.

10:15 a.m. **HB 1124**, relative to the definition of prime wetland.

## SENATE CALENDAR

### TUESDAY, FEBRUARY 11, 2020

#### **JUDICIARY, Room 100, SH**

9:50 a.m. **SB 536**, establishing a committee to study the housing appeals board.

10:30 a.m. **SB 470**, relative to the reporting of law enforcement misconduct to the police standards and training council.

### WEDNESDAY, FEBRUARY 12, 2020

#### **ELECTION LAW AND MUNICIPAL AFFAIRS, Room 102, LOB**

9:00 a.m. **SB 426**, relative to the right-to-know law.

9:15 a.m. **SB 476**, relative to parking restrictions at public access to public waters.

9:30 a.m. **SB 694-FN-A**, relative to minimal cybersecurity standards for municipalities and making appropriations therefor.

10:00 a.m. **SB 482**, relative to building codes for tiny houses.

**TUESDAY, FEBRUARY 18, 2020**

**ENERGY AND NATURAL RESOURCES, Room 103, SH**

9:00 a.m.      **SB 493-FN-A**, relative to register of deeds fees used to support the land and community heritage investment program (LCHIP), and establishing a committee to study the economic impact of land conservation and to review the LCHIP surcharge.

**TRANSPORTATION, Room 103, LOB**

2:00 p.m.      **SB 723-FN-L**, relative to winter highway maintenance exemptions.  
2:15 p.m.      **SB 724-FN**, relative to removal of abandoned or disabled vehicles by towing.

**SENATE FLOOR ACTION**

Thursday, February 6, 2020

**SB 428**, relative to notifications to the rivers coordinator of state agency actions affecting rivers. **Passed.**

**SB 461**, relative to the use of cemetery trust funds. **Interim Study.**

**SB 613**, relative to access to crash data. **Passed with Amendment.**

**SB 628-FN**, relative to the authority of the department of environmental services for emergency action at hazardous dams. **Passed.**

**SB 651-FN**, prohibiting collective bargaining agreements that require employees to join or contribute to a labor union. **Inexpedient to Legislate.**

<b>2020 NHMA UPCOMING MEMBER EVENTS</b>	
Feb. 12	<b>Webinar:</b> The Role of Municipalities in Asbestos Regulation Today!
Feb. 17	Presidents' Day (NHMA Offices Closed)
Feb 26	<b>Webinar:</b> Retooling Your Zoning to Improve Housing Affordability and Supply
To register for an upcoming event, go to our <a href="#">website</a> 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.	