

# LEGISLATIVE BULLETIN

## Town Meeting Week

Most New Hampshire towns (excepting those with an April or May town meeting) held their official ballot voting sessions, including town elections, on Tuesday of this week. The approximately one-third of towns that have adopted the official ballot referendum (SB 2) form of meeting held their deliberative sessions several weeks ago, and voted on all warrant articles on Tuesday. Most of the remaining towns elected officers on Tuesday and either held their business sessions in the few days since then or will hold them within the next week or so.

For those local officials who completed their terms of office this week, we thank you for the time and energy you have devoted to public service, including your work on behalf of NHMA. Those who have never served in local government may not appreciate the amount of work and time involved, or how thankless the task can be. But we do!

Meanwhile, we enthusiastically welcome newly elected officials. We look forward to working with you in the coming years. Please be sure to let us know the e-mail addresses of the new officials in your town who should receive the *Legislative Bulletin*, so we can provide them with the latest legislative news. You can send address changes to [governmentaffairs@nhmunicipal.org](mailto:governmentaffairs@nhmunicipal.org). Also, please go into “Manage Officials” and “Manage Organization” in the Member Features section on [NHMA’s website](#) to update information on all elected and appointed local officials and employees, as well as the new Wage Survey data.

Some who are new to local government may not fully appreciate the extent to which state legislation affects what happens at the local level—but you will learn quickly. We hope you will read the *Legislative Bulletin*, get to know your legislators, think about what you can do to influence state policy, and let us know when you have questions or ideas.

## Committee to Vote on Short-Term Rental, Tiny House Bills

We have been saying for two weeks that the Senate Election Law & Municipal Affairs Committee is about to vote on two bills that would impose highly unusual zoning mandates on all municipalities. Well, this time

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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](mailto:governmentaffairs@nhmunicipal.org)  
Website: [www.nhmunicipal.org](http://www.nhmunicipal.org)

we *really mean it*. The committee has not gotten to those bills in its last two executive sessions because of time constraints, but it is now facing a deadline and must act on them next week. So . . . at the risk of repeating ourselves, here is a summary and update:

**Short-term rentals. SB 458** is the bill that would allow every single- or two-family home in the state to be converted into a short-term rental unit, and would render municipalities powerless to regulate the practice. We explained our opposition to this proposal at some length in [Bulletin #10](#) and [Bulletin #11](#); we will not repeat those points here, but will mention a few others.

We have heard from a few senators—who obviously have been listening to the bill’s supporters—that they are concerned about towns shutting down short-term rentals that have been part of New Hampshire’s vacation landscape and tourism economy for decades. That would be a legitimate concern, if in fact there were any possibility of that happening, but there is not.

One of the first principles of zoning law, clearly stated in [RSA 674:19](#), is that a zoning change does not apply to any legal use of property that exists at the time the zoning change is adopted. The New Hampshire Supreme Court [has held](#) that such “grandfathered” uses are in fact protected by the state constitution. Thus, any property that has operated legally as a short-term rental will *never* be affected by a subsequent zoning change. ***There is no threat*** to legally existing short-term rentals. Property owners may continue to do what they have done for decades, regardless of any changes to local zoning ordinances. **SB 458**, however, would prevent municipalities from ever making any zoning changes to limit *further* development of short-term rentals.

As we have explained repeatedly, municipalities are not rushing to pass ordinances to ban short-term rentals. Rather, they are working on zoning amendments that try to accommodate new short-term rentals while respecting the legitimate interests and property rights of neighbors and of the general public. Property owners who have concerns about zoning changes should bring those concerns to their municipality, rather than running to the legislature to intervene.

We have heard that there may be a motion to send **SB 458** to interim study. Although we are not convinced there is anything that needs to be studied, that certainly is preferable to passing the bill. ***Please continue to contact members of the [Election Law & Municipal Affairs Committee](#)—and, especially, your own senator—and ask them to vote either to kill SB 458 or send it to interim study.***

### **This week’s to-do list**

- ✓ Ask your senator and members of the Election Law & Municipal Affairs Committee to oppose the zoning mandates in **SB 458** and **SB 482**.
- ✓ Ask your senator to support the PFAS funding bill, **SB 496**.
- ✓ Send us contact information for newly elected local officials.
- ✓ Wash your hands!

***Tiny houses.*** **SB 482** is the bill that would require that “tiny houses” be allowed in every residential district. It presents a similar threat to the principle of local control of zoning matters that has been at the heart of land use law for a century. As we mentioned last week, we have heard that the committee may recommend an amendment that would make the bill enabling rather than mandatory, and we could live with that. ***When you contact your senator about SB 458, please be sure to add that you also oppose the mandate contained in SB 482 as introduced. Ask them either to make the bill enabling, or kill it.***

## PFAS Funding

Last Friday afternoon the Senate Finance Committee held an executive session on **SB 496**, the **NHMA policy** bill that would provide state financial assistance toward the costs of meeting water and wastewater quality standards associated with perfluorochemicals generally referred to as PFAS. The 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 committee wanted to hear from the bill sponsors and the state treasurer about the impact this borrowing will have on the ability to fund the state’s fiscal year 2021-2022 capital budget, which will be drafted next year. According to the treasurer, there is capacity to bond above the usual capital budget amount. Additionally, he noted that the credit rating agencies are well aware that states across the country are grappling with how to address PFAS contamination and will not be alarmed by this approach.

The Finance Committee voted unanimously to recommend Ought to Pass (OTP) on **SB 496**. The bill now heads to the full Senate for a second time. It previously received unanimous support following the policy committee recommendation of OTP, and we hope the same will occur again.

## Landfill Bills

The House this week passed **HB 1319**, which, **as amended**, would prohibit the issuance of a permit for the siting of a new solid waste facility within two miles of the boundary of any state or national park, with “national park” defined to mean the Appalachian National Scenic Trail and the Saint-Gaudens National Historical Park. Before passing the bill, the House adopted a floor amendment clarifying that the bill does not limit the expansion of existing landfills.

Also this week, the House voted to send **HB 1422** to interim study. That bill would have imposed a two-year moratorium on the issuance of any permit to construct, operate, or expand a private solid waste facility.

## Right-to-Know Law Bills

Perhaps as a prelude to **Sunshine Week**, the House this week dealt with eight bills proposing amendments to the Right-to-Know Law. Here is a summary of the House actions:

- **Passed HB 1169 as amended.** The bill essentially repeals the requirement in RSA 91-A:2, III(e) that all votes of a public body be by roll call vote when one or more members are participating remotely. The bill changes the word “shall” in the existing law to “may.”

- ***Killed* [HB 1170](#)**, which would have added a definition of “reasonably described,” for purposes of the existing requirement that public bodies and agencies make available “any governmental record reasonably described” for inspection and copying.
- ***Killed* [HB 1202](#)**, which would have given a person a right to be notified 48 hours in advance of a nonpublic session that is based on potential harm to his or her reputation. The bill also would have allowed the person to be present and speak at the session, have a representative present, and record the session.
- ***Killed* [HB 1307](#)**, which would have allowed a public agency to charge for the personnel cost to produce governmental records under certain circumstances.
- ***Passed* [HB 1325](#)**, which requires public bodies to maintain a list of all minutes and decisions from nonpublic sessions where the public body has voted not to disclose the minutes. The list must indicate the date and time of the nonpublic session, the specific exemption relied upon as a foundation for the nonpublic session, the date of the decision to withhold the minutes, and the date of any subsequent decision to make the minutes available.
- ***Passed* [HB 1559 as amended](#)**. The amended bill states that sealed minutes of a nonpublic session held under RSA 91-A:3, II(d) (consideration of property transaction when public discussion would benefit a party with an adverse interest) must be automatically unsealed after a year unless the public body votes to keep them sealed.
- ***Killed* [HB 1673](#)**, which would have defined any organization that receives a material portion of its budget from the state as a “public body” under the Right-to-Know Law.
- ***Killed* [HB 1689](#)**, which would have required that all minutes of nonpublic sessions be verbatim.

The bills that passed will now go to the Senate.

## **Out-of-State Banking**

On Wednesday the House passed [HB 1119](#), which allows town, city, county, and school district treasurers and trustees of trust funds to deposit and invest public funds in out-of-state banks that meet certain criteria. Under current law, treasurers may deposit or invest in:

- 1) federally insured banks chartered in New Hampshire;
- 2) federally chartered banks with a branch in New Hampshire;
- 3) the New Hampshire Public Deposit Investment Pool; or
- 4) an out-of-state bank (*i.e.* not a New Hampshire-chartered bank or federally chartered bank with a branch in New Hampshire) only if the bank pledges and delivers to a third-party custodial bank or the federal reserve bank collateral security for such deposits; this can be costly to the depositor.

**HB 1119** as amended by the House would add a fifth option by authorizing deposits in federally insured banks chartered under the laws of another state but with a physical branch in this state if the bank meets specific criteria, including: reciprocity by the other state in accepting public funds; sufficient lending activity in New Hampshire; and payment of New Hampshire state business taxes. A legal opinion and certification that the required criteria have been met must be filed with the New Hampshire State Treasurer and posted

on the Treasury website. This process avoids our major concern—having local municipal treasurers responsible for determining whether the criteria to deposit and invest in such out-of-state banks have been met.

As we noted in [Bulletin #6](#), this bill is of particular interest to Coos County due to limited banking options for county financial operations in that county. Some previously “New Hampshire chartered banks” in the north country have recently been acquired by out-of-state banks, leaving few banks that meet the current statutory county treasurer deposit and investment requirements. We are not sure of the extent to which this is a problem for municipal treasurers, since we have not heard from any of our members about this issue. As **HB 1119** heads to the Senate, please let us know of your interest or concerns with this bill by contacting us at [governmentaffairs@nhmunicipal.org](mailto:governmentaffairs@nhmunicipal.org).

## Coronavirus Updates

On Tuesday several Senate committees received a briefing on Coronavirus Disease 2019, also known as COVID-19, from state officials and others, including the Departments of Health and Human Services, Insurance, Education, and Safety (Homeland Security and Emergency Management), the New Hampshire Hospital Association, and the New Hampshire Medical Society. A link to the live-streamed briefing is available on the General Court website: [Presentations by Departments Regarding COVID-19](#).

NHMA has added a [COVID-19 Resources](#) page on our website, under the Resources and Publication tab, where we will provide information and useful links as updates becomes available. Of particular interest to municipalities is the New Hampshire Department of Health and Human Services’ [web page on COVID-19](#) which includes information specific to schools, first responders, employers, and more, as well as the Centers for Disease Control and Prevention (CDC) [web page on COVID-19](#). We anticipate that both agencies’ pages will be updated as more information becomes available.

## Coronavirus and the Legislative Bulletin

In the event that the NHMA office closes and employees need to work from home because of coronavirus concerns, we will nevertheless continue to publish the Legislative Bulletin every Friday. However, we would need to suspend mailing of paper copies during that period. If that occurs, we will send the Bulletin by e-mail to as many of those people currently receiving paper copies as we are able; and of course, the Bulletin is always available on our website, at [www.nhmunicipal.org](http://www.nhmunicipal.org).

If you are currently receiving the Bulletin only by U.S. mail, this may be an incentive to subscribe by e-mail.

## HOUSE CALENDAR

**TUESDAY, MARCH 17, 2020**

### **ELECTION LAW, Room 308, LOB**

- 10:00 a.m. **SB 229-FN**, establishing a committee to study the value of conducting post-election audits in New Hampshire.
- 11:30 a.m. **SB 422**, relative to changes of registration of voters at primary elections.
- 1:00 p.m. **SB 485**, relative to the disqualification of certain persons from performing duties as an election official.

## SENATE CALENDAR

TUESDAY, MARCH 17, 2020

FINANCE, Room 103, SH

1:00 p.m. **SB 762-FN**, establishing an opioid abatement trust fund.

WEDNESDAY, MARCH 18, 2020

ELECTION LAW AND MUNICIPAL AFFAIRS, Room 102, LOB

9:00 a.m. **SB 757**, relative to the local option for operation of sports book retail locations.

9:30 a.m. **SB 751**, relative to addresses used by domestic violence victims to register to vote.

### New Senate Bill

**SB 762-FN**, establishes an opioid abatement trust fund to be distributed and allocated among the state, counties, and municipalities for approved uses based on criteria to be developed by the department of health and human services in consultation with a newly created opiate abatement advisory commission. Sen. Soucy of Manchester; **F-S**.

### HOUSE FLOOR ACTION

Wednesday, March 11, 2020

Thursday, March 12, 2020

**CACR 17**, relating to taxation. Providing that a new state broad-based tax may be enacted only to reduce property taxes. **Inexpedient to Legislate.**

**HB 501-FN**, (New Title) using fees from registration of commercial animal food sellers to fund the cost of care program in the department of agriculture, markets, and food. **Passed with Amendment.**

**HB 1102**, requiring food service establishments to establish food allergy awareness procedures. **Passed with Amendment.**

**HB 1104**, relative to the acquisition, sale, or demolition of municipal land or buildings. **Passed with Amendment.**

**HB 1105-LOCAL**, relative to warrant articles in official ballot town, school district, or village district meetings. **Inexpedient to Legislate.**

**HB 1111**, relative to the removal and replacement of telephone and electric poles. **Passed with Amendment.**

**HB 1115**, relative to the discharge of a firearm in the compact part of a city or town. **Inexpedient to Legislate.**

**HB 1116**, relative to the definition of “eligible facility” as it pertains to renewable generation to provide fuel diversity. **Passed.**

**HB 1119**, relative to banking by municipal and county treasurers. **Passed with Amendment.**

**HB 1124**, relative to the definition of prime wetland. **Passed with Amendment.**

**HB 1129**, relative to notice requirements for certain municipal public hearings. **Passed with Amendment.**  
**NHMA Policy.**

**HB 1144**, requiring certain employers to submit data on wage differences between male and female employees to the department of labor. **Passed with Amendment.**

**HB 1147**, prohibiting municipalities from requiring a license for a lemonade stand operated by a person under the age of 18. **Inexpedient to Legislate.**

**HB 1160-LOCAL**, allowing municipalities to collect an occupancy fee from operators of local room rentals. **Passed.** **NHMA Policy.**

**HB 1165**, prohibiting ATVs on a rail trail in Gorham. **Tabled.**

**HB 1169**, relative to requiring a roll call vote when one member of a public body participates electronically. **Passed with Amendment.**

**HB 1170**, adding a definition of “reasonably described” to the right-to-know law. **Inexpedient to Legislate.**

**HB 1171-FN-LOCAL**, relative to the application of federal Occupational Safety and Health Act standards to public employers. **Passed with Amendment.**

**HB 1173-LOCAL**, relative to the use of an official ballot in towns. **Passed with Amendment.**

**HB 1174**, requiring screening for all law enforcement officers for psychological stability and substance use disorders prior to assuming their duties as certified officers. **Passed with Amendment.**

**HB 1176**, establishing a committee to study the attorney general’s authority over certain municipal and county employees. **Passed.**

**HB 1192-FN**, relative to forfeiture of seized personal property. **Passed with Amendment.**

**HB 1195**, relative to pesticide use and notification of such use on community playgrounds. **Tabled.**

**HB 1202-LOCAL**, relative to matters discussed in nonpublic session under the right-to-know law. **Inexpedient to Legislate.**

**HB 1211**, relative to a capital reserve fund in towns under the control of the budget committee. **Inexpedient to Legislate.**

**HB 1217**, requiring police officers to report misconduct. **Passed with Amendment.**

**HB 1223**, relative to schedule I and unscheduled drug take-back programs. **Inexpedient to Legislate.**

**HB 1225**, allowing increased net energy metering limits for municipal hydroelectric facilities. **Tabled.**  
**NHMA Policy.**

**HB 1226**, prohibiting surveillance by the state on public ways or sidewalks. **Passed.**

**HB 1236**, relative to the expectation of privacy. **Passed with Amendment.**

**HB 1252-FN**, relative to large groundwater withdrawals from replacement wells. **Passed.**

**HB 1266**, relative to absentee ballot request forms. **Passed with Amendment.**

**HB 1279**, relative to the terms resident, inhabitant, residence, and residency. **Passed.**

**HB 1299**, relative to selectmen pro tem on state election day. **Inexpedient to Legislate.**

**HB 1307-FN**, relative to the cost of production of records under the right-to-know law. **Inexpedient to Legislate.**

**HB 1309**, relative to the effect of warrant articles. **Tabled.**

**HB 1310**, relative to authorizing the state to set higher environmental standards than those established in federal law. **Inexpedient to Legislate.**

**HB 1311**, relative to the semi-annual or quarterly collection of taxes in certain municipalities. **Passed.**

**HB 1316**, relative to OHRV trails known as “Ride the Wilds.” **Interim Study.**

**HB 1317-FN**, relative to funding for energy efficiency and renewable energy projects by residential, commercial, and industrial ratepayers. **Inexpedient to Legislate.**

**HB 1319**, prohibiting the siting of new landfills or expansions of existing landfills near state parks, national parks, or United States Department of Agriculture forest land. **Passed with Amendment.**

**HB 1325-FN-LOCAL**, relative to minutes and decisions in nonpublic sessions under the right-to-know law. **Passed.**

**HB 1326-FN**, requiring the independent investment committee of the New Hampshire retirement system to report investment fees. **Passed.**

**HB 1347**, addressing impacts to other water users from new sources of water for community water systems. **Passed.**

**HB 1352**, relative to municipal budget meetings. **Inexpedient to Legislate.**

**HB 1373**, establishing a committee to study the use of Styrofoam in schools, hospitals, and government buildings. **Inexpedient to Legislate.**

**HB 1390**, relative to access to ballots and verification counts of machine-counted ballots.: **Interim Study.**

**HB 1395**, establishing a committee to study ballot access and ways to improve civic engagement in New Hampshire. **Inexpedient to Legislate.**

**HB 1414**, relative to notification to abutters of an intent to cut timber. **Passed with Amendment.**



**HB 1421-LOCAL**, 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. **Passed with Amendment.**

**HB 1422-FN**, establishing a moratorium on the issuance of permits for new landfills or the expansion of existing landfills for the purpose of studying the creating of municipal waste districts. **Interim Study.**

**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. **Interim Study.**

**HB 1428-FN-LOCAL**, relative to inspections for bedbugs. **Inexpedient to Legislate.**

**HB 1443**, relative to the city of Claremont police commission. **Passed.**

**HB 1451**, relative to the definition of contracts relative to official ballot default budgets. **Passed.**

**HB 1456-FN**, relative to a PFAs testing program for pregnant women. **Inexpedient to Legislate.**

**HB 1460**, relative to the form of municipal budgets. **Passed with Amendment.**

**HB 1467-LOCAL**, relative to the taxation of commercial and residential property. **Inexpedient to Legislate.**

**HB 1481**, relative to the net metering cap for customer-generators. **Tabled.**

**HB 1483**, relative to allowing dogs on open air restaurant patios. **Passed with Amendment.**

**HB 1490**, establishing a committee to study the taxation of property owners on private roads. **Passed.**

**HB 1494-FN**, relative to death benefits for public works heavy equipment operators killed in the line of duty, and relative to workers' compensation offsets for certain retirement system benefits **Passed with Amendment.**

**HB 1503**, establishing a committee to study and monitor air emissions of PFAS. **Inexpedient to Legislate.**

**HB 1514**, relative to the presence of a fire department at a class B fireworks display. **Passed with Amendment.**

**HB 1515**, relative to group host net energy metering. **Passed.**

**HB 1524**, relative to how law enforcement shares personal information about certain non-violent offenders. **Passed with Amendment.**

**HB 1533-LOCAL**, limiting the increase in property taxes for certain persons. **Tabled.**

**HB 1534**, establishing a commission to study the creation of online voter registration for the 2022 state elections. **Passed with Amendment.**

**HB 1537**, relative to standards for perfluorochemicals in drinking water and ambient groundwater. **Passed with Amendment.**

**HB 1550-FN**, extending accidental death benefits for group II members of the retirement system suffering from heart attacks. **Inexpedient to Legislate.**

**HB 1559**, relative to sealing records in nonpublic session under the right-to-know law. **Passed with Amendment.**

**HB 1570-FN**, establishing an architectural paint program. **Inexpedient to Legislate.**

**HB 1577-FN**, relative to initiating amendments and corrections to birth records. **Passed with Amendment.**

**HB 1607-FN**, relative to liability for wrongful acts in an employer/employee relationship. **Inexpedient to Legislate.**

**HB 1644-FN**, relative to information required on marriage licenses. **Tabled.**

**HB 1651-FN**, relative to prisoners' voting rights. **Passed with Amendment.**

**HB 1665-FN-A**, establishing an independent redistricting commission. **Passed with Amendment.**  
**NHMA Policy.**

**HB 1668-FN-LOCAL**, relative to early voting for persons with disabilities. **Interim Study.**

**HB 1672-FN**, allowing voters to vote by absentee ballot. **Passed.**

**HB 1673-FN**, relative to the definition of "public body" under the right-to-know law. **Inexpedient to Legislate.**

**HB 1685-FN**, providing for the appointment of special conservators of the peace. **Inexpedient to Legislate.**

**HB 1689-FN**, relative to the minutes in nonpublic session under the right-to-know law. **Inexpedient to Legislate.**

**HB 1701-FN**, relative to the recycling of single use plastics. **Passed with Amendment.**

**HB 1702**, establishing a solid waste working group on solid waste management planning. **Passed.**

**HB 1703**, establishing a working group on food waste. **Passed with Amendment.**

**HB 1704**, relative to compost. **Passed.**

**HB 1709**, relative to building code and zoning requirements applicable to home-based child day care providers. **Inexpedient to Legislate.**

**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. **Passed.**

## SENATE FLOOR ACTION

Wednesday, March 11, 2020

Thursday, March 12, 2020

**SB 476**, relative to parking restrictions at public access to public waters. **Interim Study.**

**SB 591**, establishing a statewide solid waste disposal reduction goal. **Passed with Amendment.**

**SB 605-FN**, relative to violations of privacy involving an unmanned aerial vehicle. **Passed with Amendment.**

**SB 631-FN**, authorizing online voter registration. **Passed with Amendment.**

**SB 637-FN**, relative to fraud and errors in records of the retirement system. **Inexpedient to Legislate.**

**SB 694-FN-A**, relative to minimal cybersecurity standards for municipalities and making appropriations therefor. **Passed with Amendment; referred to F-S.**

**SB 695-FN**, relative to sharing voter registration information. **Passed.**

**SB 756-FN-L**, relative to insurance coverage for emergency volunteers. **Interim Study.**

**SB 759-FN**, relative to employers provision of reasonable accommodations for pregnant employees. **Passed with Amendment.**

### 2020 NHMA UPCOMING MEMBER EVENTS

Mar. 25	<b>Webinar:</b> Learn More About NHDES's Safetank Program
Mar. 31	Right-to-Know Law & Governmental Meetings Workshop (6:00-8:00 p.m., Derry)
Apr. 1	<b>Webinar:</b> Legislative Half-time
Apr. 7	Local Officials Workshop - Concord
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.	