

LEGISLATIVE BULLETIN

Week 3

The third week of the legislature’s closure for COVID-19 ended today. There are some hazy signs of activity, but except as described in the following article, no committee hearings and no House or Senate sessions have been scheduled. We do know that committee chairs have been asked to identify their highest priority bills so that they may be given prompt attention when the legislature is able to begin meeting again. We hope to have more information next week.

Fiscal Committee to Meet

The one legislative committee with a meeting scheduled is the Fiscal Committee, a joint House-Senate committee that is responsible for approving the acceptance and expenditure of non-state funds in excess of \$100,000, including federal aid. The committee plans to meet next **Friday, April 10, at 10:00 a.m.**, by audio conference. The committee is likely to take up the matter of accepting the \$1.25 billion designated for New Hampshire under the recently enacted federal CARES Act. (See “Federal Emergency Funding” article below.) Instructions for calling in to listen to the committee’s meeting are available on page 1 of the [current House calendar](#).

Emergency Order Suspends Deadlines, Provides Other Relief

Responding to a request submitted by NHMA, the governor on Wednesday issued [Emergency Order #23](#), which addresses a multitude of municipal concerns and should relieve some of the headaches local officials are suffering in the COVID-19 era. Below is a summary of the order. ***Municipal officials should not take any actions based solely on this summary.*** Please read the order itself and contact NHMA or your municipality’s legal counsel if you have questions:

- ***Signing documents outside public meetings; electronic signatures.*** Paragraph 1 allows governing bodies and other public

NHMA Legislative Bulletin 15
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Inside this issue:

Federal Emergency Funding	3
More COVID-19 Legal Issues	4
Legislative Policy Process	4
NHMA Events	4

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bodies to sign manifests and other documents outside a public meeting if the documents are “necessary for the continued operations of local government.” Local officials are permitted to send and accept electronic signatures consistent with RSA 294-E and the federal Electronic Signatures Act.

- ***Periodic meeting requirements.*** Paragraph 2 relieves local public bodies from all statutory and local requirements that they meet on a particular schedule or with a particular frequency. The order specifically suspends the requirement in RSA 673:10, II, that planning boards meet at least once a month. It would also apply, for example, to a city charter provision requiring the council to meet twice a month.
- ***Bond hearings and other hearings related to town meeting.*** Paragraph 3 provides that towns that have postponed their annual meetings—or do so in the future—are not required to repeat statutorily required hearings already held in advance of the originally scheduled town meeting. This includes, but is not limited to, required bond hearings under RSA 33:8-a.
- ***Unanticipated and emergency expenditures.*** Paragraph 4 authorizes a municipality to make expenditures associated with the COVID-19 pandemic in excess of town meeting appropriations under RSA 32:11, I. The municipality still must obtain approval from the Department of Revenue Administration as provided in that section, but the order waives the statute’s requirement of a public hearing in towns without a budget committee. Although the order does not expressly waive the requirement of budget committee approval in towns with a budget committee, we believe it was the intent to waive that requirement. Municipal officials are encouraged to consult with DRA to ascertain exactly what is required. RSA 32:11, II is unaffected; if there is a “sudden or unexpected emergency” that necessitates an over-expenditure under that paragraph, the governing body may proceed and apply to DRA after the fact.
- ***Deadlines for land use boards and others.*** Paragraph 5 relieves municipalities from complying with statutory and local deadlines for taking certain actions on applications and requests. These include, but are not limited to:
 - a) all deadlines for planning and zoning boards to accept, hear, and act on land use applications under RSA 676:4 and :7;
 - b) the requirement under RSA 91-A to make governmental records available immediately for inspection and copying (but officials must still provide an answer about the record’s disclosure within five business days); and
 - c) deadlines for conducting inspections for permits and building code and fire code compliance.
- ***Construction in the absence of building permits and inspections.*** Paragraph 6 allows contractors to continue with construction projects when a municipality is not issuing building permits or performing inspections, but only by following very strict requirements set out in the order.
- ***Marriage license extension.*** Paragraph 7 extends marriage licenses that would expire during the state of emergency for 60 days beyond the end of the state of emergency.
- ***Remote distancing for municipal services.*** Paragraph 8 allows municipalities to “transition to phone, online, and limited-appointment only services to allow for proper social distancing.” This includes matters such as vital record requests and applications for public assistance.

- **Swearing in newly elected officials.** Paragraph 9 suspends the requirement of RSA 42:3 that newly elected municipal officials be sworn in only after the town meeting’s business session has ended. This solves the conundrum faced by towns that had their elections in March but then postponed their business sessions. It also allows the administration of oaths by electronic means, subject to precise requirements stated in the order.

We are extremely appreciative of the work done by the governor’s office, with assistance from the attorney general’s office and the Department of Revenue Administration, to address [the issues raised by NHMA and our members](#).

Federal Emergency Funding

Municipalities should be aware of several possible sources of federal funding to address COVID-19-related expenses. NHMA is following federal developments closely, and municipalities are encouraged to do the same.

Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”)

H.R. 748, the federal stimulus bill known as the CARES Act that was signed by the president last Friday, contains funding through many different programs for many different purposes. The [section-by-section summary](#) is a very helpful tool for understanding what is included in the bill. One of the more significant provisions of the bill affecting municipalities is the \$139 billion for the State and Local Coronavirus Relief Fund (Title V, p. 39 of the section-by-section summary). (The amount listed in the summary is \$150 billion, but a portion of that will go to the District of Columbia, U.S. territories, and tribal governments. The amount designated for states and municipalities is \$139 million.)

No money from that fund will come *directly* to any New Hampshire city or town, since the criterion for direct funding to a municipality is a population that exceeds 500,000. However, the State of New Hampshire will receive a minimum of \$1.25 billion to be used for “necessary expenditures” related to COVID-19 incurred during the period March 1, 2020 through December 31, 2020. While there is no provision for the state to distribute money to local governments, NHMA will be advocating that state officials allocate part of this funding to reimburse municipalities for COVID-19 expenses. **Therefore, it is crucial that municipalities track expenditures related to COVID-19 to help us paint a picture of what the financial impact has been, particularly since different communities will likely have different impacts.**

Community Development Block Grants (CDBG)

NHMA is working with the Community Development Finance Authority (CDFA) to understand how CDBG funds may be used for COVID-19 expenses. The CDFA is in daily contact with the federal Department of Housing and Urban Development (HUD) and hopes to provide further guidance soon.

FEMA Funding

We understand that Federal Emergency Management Agency (FEMA) funding will be available, although it’s not entirely clear yet what COVID-19 costs will be eligible. FEMA has indicated that it will not duplicate any assistance provided by other agencies, like the Department of Health and Human Services or the Centers for Disease Control. The New Hampshire Division of Homeland Security and Emergency Management (HSEM) is coordinating the FEMA funding efforts. This [informational document](#) from HSEM includes

additional information, as well as a list of costs deemed eligible for FEMA at this point; HSEM is also encouraging municipalities to track costs, as discussed above.

Closing Advice

Please track and report expenses to help us understand what your needs are. This will assist NHMA in our advocacy efforts on the state and federal level, and with proper allocation of FEMA, CDBG, HHS, and other funding resources.

More COVID-19 Legal Issues

Although Emergency Order #23 addressed many of the legal issues arising out of the COVID-19 emergency, we know local officials still have many more questions. Continue to check the [COVID-19 Resources page](#) on our website for answers, as we will post more information as it becomes available. (From our home page, www.nhmunicipal.org, go to Resources & Publications, then COVID-19 Resources.) If you don't find your answers there, please contact our legal services staff.

Legislative Policy Process Update

As stated previously, we have postponed NHMA's legislative policy process. We are looking at dates in late May for the rescheduled organizational meeting of the policy committees, originally scheduled for today. We are also extending the deadline to submit legislative policy proposals to June 12. [Here is a link](#) to the legislative policy proposal form.

We will publish an update when we have more details. Thank you for your patience—we look forward to meeting with all our policy committee members, either virtually or in person, as soon as we can.

2020 NHMA UPCOMING MEMBER EVENTS	
Apr. 7	Virtual Workshop: Local Officials (online)
Apr. 8	Webinar: ZBA Basics in New Hampshire (12:00 – 1:00 p.m. online)
Apr. 17	Virtual Workshop: Hot Topics in Road Law (online)
Please visit www.nhmunicipal.org for the most up-to-date information regarding our upcoming training opportunities and events.	
For more information, please call NHMA's Workshop registration line: (603) 230-3350.	