

LEGISLATIVE BULLETIN

That’s It for 2020

A strange legislative session came to an unusual end this week. In a rare Monday session, the Senate passed several heavily amended House bills, supplementing those it had passed two weeks earlier. The House on Tuesday concurred with the Senate amendments on almost all of the approximately three dozen bills. There are no committees of conference; the legislature is now done for the year, except for a likely session in the late summer or early fall to consider override votes on bills vetoed by the governor.

As we explained previously, many bills did not make it through the regular legislative process this year because of the pandemic-forced shutdown. Hundreds of House and Senate bills were left to die on the table. However, the ghosts of many of those bills found their way into amendments to bills that ultimately did pass the Senate, and the House then concurred with those amendments.

Because the bills passed this week contained so many amendments that bore little or no relationship to the original bills, it is a challenge to explain them all. However, the articles below summarize the bills that are of most interest to municipalities.

Caution: All of these bills need to go to the governor for his consideration, and he has indicated that he is not happy with at least some of the bills that have made it this far. He was quoted this week as saying that he would “err on the side of a veto” in addressing them—so it is fair to expect that some of the items described below will not become law. Look for final answers when our Final Legislative Bulletin is published in August.

PFAS Funding

HB 1264 is the bill that contains the language originally included in **SB 496**, providing state financial assistance toward the costs of meeting water and wastewater quality standards associated with PFAS. The House concurred with the Senate’s amendment by a vote of 210-116. NHMA’s

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July 2, 2020

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position was a point of discussion during the debate, and we were pleased that last week's Legislative Bulletin explaining our support was referenced on the House floor.

Despite significant opposition in the House, we are hopeful that the governor will sign the bill into law.

Absentee Registration, Voting, and Processing

HB 1266 makes several temporary changes to election laws just for the 2020 state primary and general election, including:

- Adds “concern for the novel coronavirus (Covid-19)” as a basis for using the absentee voter *registration* process and amends the absentee registration affidavit accordingly;
- Adds “concern for the novel coronavirus (Covid-19)” as a basis for requesting an absentee *ballot* and amends the absentee ballot application form accordingly;
- Amends the absentee ballot application form to enable a voter to request an absentee ballot for both the September primary and the November general election with a single application form;
- Amends the statute that specifies the number of voting booths required for each election to allow the secretary of state to alter those requirements; and
- Authorizes election officials to begin the processing of absentee ballots on the Thursday, Friday, Saturday, or Monday before the election.

HB 1266 passed the Senate unanimously, but the vote in the House was closer at 221-101, after some representatives asserted that the bill is unconstitutional, citing Part 1, Article 11 of the New Hampshire Constitution. That section says, “The general court shall provide by law for voting by qualified voters who . . . are absent from the city or town of which they are inhabitants, or who by reason of physical disability are unable to vote in person” The claim was that by requiring the legislature to allow absentee voting by voters who are absent or disabled, the constitution *prohibits* the legislature from authorizing anyone *else* to vote in this manner.

That is a misreading of Article 11. The requirement in that article is a *minimum*, not a *maximum*. The legislature is required to provide for absentee voting by absent and disabled voters, but that obviously does not prohibit it from extending that option to more voters.

Although the bill does not address all the issues that election officials are concerned about this year, it is a very good step. We will continue to work with the governor and other state officials to address other issues of concern.

The House also concurred with the Senate's amendment to **HB 1672**, which addresses some of the same issues, and which we reported on a couple weeks ago. However, the governor has made it clear that he intends to veto **HB 1672**, and there will not be enough votes to override the veto in either the House or the Senate. Meanwhile, all indications are that the governor will sign **HB 1266**.

Postponed Town Meetings and Town Expenditures

As we reported last week, [HB 1129](#) is intended to provide relief to towns that have been unable to hold their annual meetings this year. The bill, as amended, authorizes a town, school district, or village district to hold a meeting using an alternative procedure that a few school districts have already employed. This is described in [Bulletin #25](#).

The amended bill also extends the benefits of RSA 32:13, II, to towns and districts that have a May town meeting and/or a June 30 fiscal year, enabling them to make expenditures between the beginning of their fiscal year and the date of their meeting that are reasonable in light of prior years' appropriations and expenditures.

Those parts of the bill may be largely moot by the time the bill gets to the governor. Many of the towns that postponed their meetings have found ways to hold them since the prohibition on large gatherings was rescinded; and those that haven't done so will probably not want to wait to see whether the governor signs **HB 1129**, as it typically takes several weeks for bills to get to the governor. The expenditure issue has been solved by the governor's [Emergency Order #56](#), which extended the benefits of RSA 32:13, II, to towns with June 30 fiscal years.

Nevertheless, we hope the governor will sign **HB 1129**, primarily because of the underlying bill, whose original language remains intact and implements an **NHMA policy**. Section 1 of the bill allows a planning board to publish notice of hearings on proposed zoning amendments on the municipality's website, rather than in a newspaper as currently required. If a municipality uses this option, it would still be required to post notice of the hearing in two other public places—but using the website instead of a newspaper will save significant amounts of money as well as avoiding the common problem of meeting the newspaper's deadline for submission of advertisements. Putting the notice on the website is also a logical step now that most local boards are providing electronic access to their meetings; if residents are going to the website to watch and participate in the hearings, it makes sense that they would also go there to find out when the hearings are.

The bill passed the Senate 23-1 and passed the House 248-64.

Highway Block Grants and DOT Leased Properties

As we have reported previously, [HB 1182](#) authorizes the Department of Transportation (DOT), with approval from the Legislative Fiscal Committee and the governor and executive council, to make highway block grants to municipalities at a percentage greater than the statutory 12 percent if the department receives additional federal funds as part of COVID-19 relief. The amount distributed would be up to the fiscal year 2021 budgeted amount. It is anticipated that fiscal year 2020 highway fund revenues will be less than budgeted, so the statutory 12 percent would leave municipalities short. **HB 1182** would allow municipalities to be made whole—but only if DOT receives additional federal COVID-19 relief funding.

HB 1182 as amended also includes language originally contained in [SB 614](#), requiring DOT to provide assessing officials, in municipalities where the department leases property to others, with copies of such leases by April 15, 2021, and annually thereafter.

We are unsure what the governor's position on **HB 1182** will be.

Reduced Majority Requirement for Bond Vote

HB 1558 addresses a number of issues dealing with public education, which NHMA does not follow closely, but there is one section that is relevant to towns. Section 19 changes the majority vote required for the legislative body of a town, school district, or village district to issue a bond or note from two-thirds to three-fifths. (The requirement for SB 2 towns and districts is already three-fifths; this change would affect only towns and districts with a traditional town meeting form.)

The language in section 19 came from **SB 563**, which passed the Senate in February on the consent calendar, before getting stranded in the House. **HB 1558** itself passed the Senate on a voice vote, but it ran into Republican opposition in the House, where it passed by an almost straight party-line vote of 201-129. That could suggest a veto by the governor, but we do not have any further information.

OSHA Compliance, Workers' Compensation Presumption, Union Elections

HB 1494 is an omnibus labor bill. Among other things, it does the following:

- Requires public employers to comply with the federal Occupational Safety and Health Act (OSHA);
- Repeals the limit on the length of time that heart or lung disease in a firefighter is presumed to be occupationally related under the workers' compensation statute; and
- Requires the Public Employee Labor Relations Board to certify a union "which has received a written majority authorization for the purpose of collective bargaining for all of the employees in the bargaining unit."

The Senate divided the bill before passing it. The parts of the bill *other* than those discussed above passed on a 23-1 vote, while the sections discussed above passed on a 14-10 vote, with all Democrats in favor and all Republicans opposed. Because all sections of the bill passed, although by different margins, **HB 1494** came to the House as a single bill. The House then passed it on a mostly party-line vote of 202-127.

The unified Republican opposition to parts of the bill suggests that a veto is possible. We have concerns about some of the same provisions, and we would welcome a veto.

Window Closing on Additional COVID-19 Relief Funds

NHMA received information this week from the offices of both U.S. Senators Hassan and Shaheen that the Senate window for municipal local governments to receive direct or flexible funding is closing. We understand that the Senate will consider the coronavirus relief package when it returns from its two-week July 4 recess, with the goal of finishing before both chambers depart for their lengthy August break. There are several pieces of legislation floating in the Senate that include support for local governments, but there is still no agreement in Congress to include federal aid to local governments in the next coronavirus relief package. We have also expressed concerns that the current GOFERR municipal relief allocations set to expire on December 30 may not be adequate, especially given the recent nationwide spike in COVID cases.

To aid in advocating for direct and flexible funding to towns and cities, the offices of Senators Shaheen and Hassan would welcome first-hand information directly from New Hampshire municipalities that have experienced significant issues relative to expenditures and revenue shortfalls. If your municipality wishes to provide this information, please provide it in a narrative-type "story" format. To ensure that your stories can

be shared in support of New Hampshire municipalities during these critical deliberations, please send your narrative directly to NHMA at governmentaffairs@nhmunicipal.org.

Additionally, NHMA will be working to gather actual revenues and expenditures of all 234 New Hampshire municipalities through July 31 and to capture the July 1 tax collection rates. NHMA is planning to issue this comprehensive follow-up COVID-19 financial impact survey the week of July 20 with an early August response deadline. Please be on the lookout for this important survey to ensure that it is directed to the appropriate staff for completion.

Legislative Policy Recommendations Will Arrive Soon

The first phase of NHMA’s biennial legislative policy process is complete. Three legislative policy committees met throughout the month of June to consider and revise policy proposals. The committees finished their work last week, and their recommendations will be sent to all municipalities next week. Mayors, governing body members, and municipal managers and administrators should check their e-mail on July 8 or 9 for the legislative policy recommendations and related information. **Please note:** We do not plan to mail hard copies of the recommendations this year.

We encourage every municipal governing body to review the policy recommendations in preparation for the legislative policy conference in the fall. Information about the policy conference and the steps leading up to it will be included in next week’s correspondence.

Happy Fourth, and Happy Summer

This will be our last weekly Legislative Bulletin for this legislative session. As always, our Final Legislative Bulletin, to be published in August, will summarize all the new laws enacted this year that affect municipal government.

These have been strange days indeed, and we hope for something closer to normal in 2021. In the meantime, we wish all our readers a happy holiday weekend and an enjoyable and virus-free summer.

2020 NHMA UPCOMING MEMBER EVENTS	
July 8	Webinar: Safer at Home 2.0 Municipal Guidance (12:00 – 1:00)
July 9, 16, 23, 30	Weekly COVID-19 Call with NHMA (1:00 p.m.) – each Thursday
July 15	Webinar: The Right-to-Know Law and Governmental Records (12:00 – 1:00)
July 22	Webinar: The New Art of Utility Valuations (12:00 – 1:00)
July 29	Webinar: Reengineering Your Employment Procedures in Light of Recent Court Decisions (12:00 – 1:00)
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.	