

LEGISLATIVE BULLETIN

House Session Recap

Last week's Bulletin went to press while the House was still knee-deep in municipal bills. We were able to report on some of those bills, but several were not resolved until later in the day. Here are the highlights. (See [last week's Bulletin](#) for information on other bills.)

The good news. There was some very good news, as several of the most troubling bills are now in the rear-view mirror.

Municipal liability and immunity. In a huge victory, the House overturned the Judiciary Committee's 19-2 recommendation of Ought to Pass on [HB 111](#), the bill dealing with state and municipal immunity. This was one of the most fiercely debated bills of the week—both before and during the House session—and the one that worried us the most. The Ought to Pass motion failed by a narrow margin, 178-184, and the bill was then tabled on a voice vote. Because it was tabled, rather than voted Inexpedient to Legislate, it is technically possible for the bill to be removed from the table and passed—but the probability of that is a small fraction of one percent. For all intents and purposes, the bill itself is dead. Slightly more likely is that the language of the bill will show up as an amendment to another bill. We will watch for that, but we believe it is highly unlikely as well.

Thank you to all the local officials who worked to defeat the bill. This was a major collaborative effort involving many groups—especially the Police Association, the Chiefs of Police Association, and the Fire Chiefs Association, in addition to NHMA, but also including several others. Here is the [roll call](#). Please thank your representatives who voted “nay.”

We know that many legislators were torn on this issue, and we recognize that some of them, while concerned about the bill's effects on municipalities, simply felt that something must be done to address misconduct by government actors. We understand that, and there may be a legislative solution, but as we said many times, we believe **HB 111** went too far.

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City council powers. The House also rejected the Municipal and County Government Committee’s Ought to Pass recommendation on [HB 439](#), by a similarly narrow margin, 185-192. This is the bill that would have repealed the authority of city councils to adopt ordinances “for the well-being of the city.” Here is the [roll call](#). Again, please thank your representatives who voted “nay.” (And if they voted “nay” on both [HB 111](#) and [HB 439](#), thank them twice.)

Immigration enforcement. On a voice vote and without discussion, the House tabled [HB 266](#), which would have required municipalities to comply with federal immigration detainer requests, and would have prohibited the adoption of local policies discouraging the police from inquiring about the immigration status of any individual. We are not certain what prompted the tabling of the bill, but we would not be surprised to see a similar bill next year—or to see the language of [HB 266](#) show up as an amendment to another bill this year.

The bad news. Given how many bad bills had received positive committee recommendations, some of them were sure to make it through. The House passed the following bills that NHMA opposes:

Amending petitioned articles. By a 12-vote margin, 193-181, the House passed [HB 67](#), which would prohibit the voters at a town meeting deliberative session in an official ballot referendum (SB 2) town from amending a petitioned warrant article “to change its specific intent.” As we have explained repeatedly, this makes no sense. In any legislative body, once a question—whether a warrant article at town meeting or a bill in the legislature—is filed, the legislative body can amend it as it sees fit, so long as it does not change the subject matter. [HB 67](#) would prohibit an amendment even if the petitioners *themselves* want to amend the article. If they realize after submitting the article that they want to do something slightly different, or that they left an important piece out of the article, they will be out of luck.

Town budget format. In an *extremely* close vote, 189-186, the House passed [HB 243](#). This bill requires that all budgets be prepared in “full line item detail,” but does not define that term. It requires the budget to be “published”—without saying how or where—in both “CSV and PDF formats for easy viewing and use by common spreadsheet programs.” Municipalities should be able to use the budgeting formats that work best for them, subject to compliance with existing requirements established by DRA. Municipal budgets, in whatever form they exist, are already subject to disclosure to anyone who asks for them. This bill is an effort to micromanage local processes by imposing requirements that the state itself does not follow. [HB 243](#) is scheduled to be heard in the Senate Election Law and Municipal Affairs Committee this coming **Monday, April 19, at 10:00 a.m.** Members are encouraged to sign in opposition or register to testify using the [Senate remote sign-in sheet](#).

Adoption of SB 2. Finally, the House passed [HB 374](#), relative to the process for adopting the SB 2 form of town meeting, by a margin of 200-175. This bill reinstates the process that was in effect before 2019, requiring the question of adopting SB 2 to be placed on the official ballot, rather than debated and voted on at the town meeting’s business session. We believe that a fundamental change to the town meeting format is something that should be decided after a thorough and informed discussion among those voting. [HB 374](#) would instead relegate the decision to one sentence, without explanation, on the official ballot. This will leave voters a few seconds, alone in a voting booth, to make up their minds on the most significant change a town meeting is ever likely to make.

All of these were division vote, so no roll call is available for them. All three bills are now in the Senate and have been referred to the [Election Law and Municipal Affairs Committee](#). As mentioned above, the hearing on [HB 243](#) is scheduled for this coming **Monday, April 19, at 10:00 a.m.** Hearings on the other two bills

have not been scheduled yet, but they will be soon. Please contact members of the committee to voice your opposition to these bills, or consider testifying or signing in opposition. Use the [Senate remote sign-in sheet](#) to register to testify or express your opposition. Please contact us if you have any questions.

A few loose ends. A few other bills we were following died an unusual death. Using a format we have not seen before, the calendar for last week's House session listed all the bills that had committee reports of "Ought to Pass" first, with the bills that had reports of "Inexpedient to Legislate" at the end. When the House ran out of time on Friday evening, it had not yet gotten to most of the "Inexpedient to Legislate" bills. The session was adjourned, and because Friday was the deadline for the House to act on its bills, the remaining bills were, in essence, killed by inaction. They were not formally voted Inexpedient to Legislate, but they're just as dead now as if they had been.

There is one important consequence of the failure to vote those bills Inexpedient to Legislate. Under House rules, when a bill is voted ITL in the first year of a legislative term (like this year), the same subject matter cannot be introduced in the second year. Because those bills were not voted ITL, any of them could be introduced (with a different bill number) next year.

Among the bills that died in this manner were [HB 341](#), which would have required municipalities to allow certain single-family dwellings to be configured into four units; [HB 588](#), which would have required municipalities to allow "tiny houses"; and [HB 616](#), which would have instituted new requirements for certain zoning appeals. NHMA had opposed all of these bills.

Surveillance Bill Full of Problems

On Wednesday, the Senate Judiciary Committee heard testimony on [HB 474](#), a bill that would modify RSA 235:130, the highway video surveillance statute. The bill ostensibly seeks to prohibit the state and its subdivisions from installing fixed site cameras for law enforcement purposes, except as permitted by other statute or by warrant. As drafted, however, the bill focuses on modifying the already complex definition of "surveillance" contained in RSA 235:130, rather than the use of technology by law enforcement. The bill prohibits governmental use of any camera that *can* be used to determine the ownership or location of a motor vehicle or the identity or location of a pedestrian, even if it is *not* used for that purpose.

Opponents, including NHMA, pointed out that the bill would potentially: prohibit in-vehicle automatic crash detection systems such as On Star from automatically dispatching emergency services to the scene of a crash; prohibit wearable smart technology with fall detection services, such as Apple Watches, from automatically dispatching emergency services to the home of an elderly person in an emergency; prohibit police officers from using their cruiser cameras to provide objective, third-party views of the interaction between the police and public; and prohibit contractors working as agents of highway departments from taking photographs or videos as part of their construction projects. Other unintended consequences have come to light since the hearing. Municipalities with "smart" traffic lights or streetlights see those lights operate based on information fed to algorithms from fixed cameras on or near the traffic or streetlights. This ensures that people don't have to wait at stoplights longer than necessary, and that street lighting can be dimmed when it is not needed.

Undoubtedly, there are other governmental uses of cameras that occur which no one objects to, and we are concerned that some of those uses would come to light only after being prohibited. ***Please ask your Senator to oppose HB 474.***

Community Power Threat Avoided

We are still catching up on some things that we pushed aside while we worried about all the troubling House bills in recent weeks. One bill that has progressed nicely is **HB 315**, relative to aggregation of electric customers. As introduced, the bill would have decimated the “community power law,” passed in 2019 and codified in RSA 53-E, which gives municipalities greater control over their electricity choices. **HB 315** was of major concern to municipalities that were already working to implement community power for the benefit of electric customers and taxpayers.

Happily, all interested parties were able to work with legislators to amend the bill in a manner that preserves the benefits of the community power law. We do not pretend to be experts in this area, but advocates for community power assure us that it is a good result. The Science, Technology and Energy Committee recommended the amended bill unanimously, and the House passed it on the consent calendar last week. It now goes to the Senate, where it will be scheduled for a hearing in the Energy and Natural Resources Committee in the near future.

HOUSE CALENDAR

All hearings will be held remotely. See the [House calendar](#) for links to join each hearing.

MONDAY, APRIL 19, 2021

SCIENCE, TECHNOLOGY AND ENERGY

10:30 a.m. **SB 91**, adopting omnibus legislation on renewable energy and utilities.

TUESDAY, APRIL 20, 2021

JUDICIARY

9:30 a.m. **SB 143-FN**, adopting omnibus legislation relative to certain agency requests.

FRIDAY, APRIL 23, 2021

ELECTION LAW

10:30 a.m. **SB 83**, adopting omnibus legislation relative to elections.

11:15 a.m. **SB 89**, adopting omnibus legislation relative to election procedures and registers of probate.

TUESDAY, APRIL 27, 2021

JUDICIARY

9:00 a.m. **SB 134-FN**, adopting omnibus legislation relative to civil actions and criminal liability.

SENATE CALENDAR

All hearings will be held remotely. See the Senate calendar for links to join each hearing.

MONDAY, APRIL 19

ELECTION LAW AND MUNICIPAL AFFAIRS

9:00 a.m. **HB 223**, relative to political party access to a list of absentee ballot requests.

9:10 a.m. **HB 285**, relative to verification of voter checklists.

9:20 a.m. **HB 484**, relative to budget committee recommendations on warrant articles.

9:45 a.m. **HB 183**, prohibiting municipalities from requiring a license for a soft drink stand operated by a person under the age of 18.

10:00 a.m. **HB 243**, relative to the form of municipal budgets.

WEDNESDAY, APRIL 21

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

9:00 a.m. **HB 72**, relative to ratification of amendments to the state building and fire codes.
10:00 a.m. **HB 218**, repealing RSA 320 relative to hawkers and peddlers and RSA 321 relative to itinerant vendors.

HOUSE FLOOR ACTION

Friday, April 9, 2021

HB 67-LOCAL, relative to warrant articles in official ballot town, school district, or village district meetings. **Passed with Amendment.**

HB 111, establishing a cause of action against the state to protect individual rights. **Laid on Table.**

HB 177, prohibiting the siting of a landfill near a state park. **Passed with Amendment.**

HB 183, prohibiting municipalities from requiring a license for a lemonade stand operated by a person under the age of 18. **Passed with Amendment.**

HB 243, relative to the form of municipal budgets. **Passed with Amendment.**

HB 266-FN-LOCAL, relative to enforcement of immigration laws and the prohibition of sanctuary policies. **Laid on Table.**

HB 279, relative to the maximum allowable vehicle gross weight for a combination of truck-tractor and single semi-trailer with 4 or more axles. **Laid on Table.**

HB 315, relative to the aggregation of electric customers. **Passed with Amendment.**

HB 332, relative to deadlines for consideration of developments of regional impact by planning boards. **Passed with Amendment.**

HB 374, relative to the official ballot referendum form of town meetings. **Passed.**

HB 439, relative to the powers of city councils. **Laid on Table.**

HB 484, relative to budget committee recommendations on warrant articles. **Passed.**

2021 NHMA UPCOMING MEMBER <u>VIRTUAL</u> EVENTS	
Weekly	Friday Membership call (1:00 – 2:00)
May 6	A Hard Road to Travel (9:00 – 12:30)
May 18	Local Officials (9:00 – 4:00)
May 20	Code Enforcement (9:00 – 12:00)
Please visit www.nhmunicipal.org for the most up-to-date information regarding our upcoming virtual events. Click on the Events and Training tab to view the calendar. For more information, please call NHMA's Workshop registration line: (603) 230-3350.	