

LEGISLATIVE BULLETIN

Good-Bye and Hello

Many local officials completed their terms of office this week, and some will next week. Whatever the timing, we thank all of you for the time and energy you have devoted to public service, including your work on behalf of NHMA. For those who have never served in local government, it is difficult to appreciate how much work and time are involved, and how thankless the task can be. We hope you will enjoy your time off.

Meanwhile, we enthusiastically welcome all of the new officials. We look forward to working with you in the coming years. Our annual update to the Municipal Officials Directory is underway, so please be sure to provide updated contact information for your municipality. Local officials who are not yet subscribed to the *Legislative Bulletin* can [do so here](#).

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.

A Busy Week Ahead

Thursday, March 17, is the last day for the House to act on House bills not in a second committee and the deadline for Senate policy committees to act on all Senate bills with a fiscal impact, except bills exempted pursuant to Senate Rule 4-5. As a consequence, the House will meet Tuesday, Wednesday, and Thursday in order to act on all bills not in a second committee. The Senate will meet Thursday. There will be few committee hearings in either body.

Please note that the House bills that we discussed in [last week's Bulletin](#) are being voted on this coming week. Members should contact their representatives to ask them to vote *against* the committee recommendations on the following bills: [HB 1033](#), prohibiting municipalities from using funds collected from property taxes to lobby the state legislature (also written about below); [HB 1268](#), the city council powers bill; [HB 1272](#), the health officer bill; [HB 1070](#), the default budget bill; and [HB 1073](#), the attorney-client privilege exemption repeal bill.

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Please note that the House has yet to concur, non-concur, or non-concur with request for a committee of conference on [HB 307](#), which would punish local officials for adopting a local ordinance that exceeds their authority on guns. That bill, which we wrote about in [Bulletin #3](#), was amended by the Senate, after passing the House, and now awaits further action by the House. We urge members to ask their representatives to vote to non-concur with the Senate and let the bill die.

Reminder: House Bill 1033

Reminder: *Please contact your representatives as soon as possible* and ask them to *kill HB 1033*—the bill that would prohibit municipalities from using any “funds collected from property taxes” to lobby the state legislature. We are asking legislators to vote *against* the committee recommendation of Ought to Pass and *for* an Inexpedient to Legislate motion or any other motion that would kill the bill.

We explained in [Bulletin #10](#) and in a [recent communication to our membership](#) how **HB 1033** hurts local government, and we think that this is a great opportunity for our members to explain to legislators why the lobbying efforts of NHMA and similar organizations are so important. Membership organizations for local governments provide education and support for local officials, while helping them to advocate, engage, and work with the legislature and other policymakers in an efficient and beneficial way. When the pandemic shut down the world [in 2020](#), it was advocacy efforts at the state legislature that crafted a workable solution to delayed town meetings; brought \$32 million in federal CARES Act funds to cities; and *still* helped secure \$50 million in state funding for cities and towns to deal with PFAS in drinking water. The very [next year](#), advocacy efforts at the state legislature resulted in 30 percent of meals and rooms tax revenue being distributed to towns and cities, with a total estimated value of \$196 million dollars. This year, municipal advocacy helped the House [reverse a committee recommendation](#) to kill a bill that would provide a 7.5 percent state contribution to the employer’s share of the New Hampshire Retirement System obligation, saving an \$27.7 million in fiscal year 2023 and \$28.4 million in fiscal year 2024. And those are just *some* of the *recent* examples of how advocacy improves local operations, and of the kind of results that would be much less likely if **HB 1033** passes.

We are hopeful that the House will reverse the committee recommendation and support municipalities by killing **HB 1033**.

Election Law Committee Tackles Important Bills

On Wednesday, the **House Election Law Committee** voted on three bills that NHMA is following closely this year.

The first bill, [HB 1064](#), the hand-count bill that [we wrote about previously](#), was unanimously recommended as Inexpedient to Legislate. Had the bill been enacted, every election in New Hampshire would have had to be hand-counted. If the House agrees with the committee’s recommendation during its session next week, New Hampshire cities and towns will continue to decide for themselves whether to use the AccuVote machines.

The second bill, [HB 1485](#), which we mentioned in [Bulletin #2](#), would have created a procedure for the direct recall of any local elected official serving a 3-year term. At the recommendation of the sponsor and with the consent of the cosponsors, the bill was unanimously recommended as Inexpedient to Legislate.

The third bill, [HB 1567](#), which we also mentioned in [Bulletin #2](#), was substantially modified by [an amendment](#) prior to receiving an Ought to Pass with Amendment recommendation with bipartisan support. [As written](#), [HB 1567](#) would have allowed any registered voter to bring suit in superior court against any municipal election official for failure to perform his or her election duties. Wisely, the committee recognized that [RSA chapter 666](#) makes the attorney general responsible for the enforcement of the election laws, and the amendment modified the bill substantially to remove private causes of action in favor of action by the attorney general's office. Unfortunately, the amendment does grant the attorney general's office the authority to subject a municipality to a civil penalty and restitution upon negligent action of an election official. We are concerned about the recent legislative trend of trying to impose fines on municipalities for the misdeeds—intentional or negligent—of their officials. If an election official has truly failed to perform his or her duties in a material way, it seems the appropriate remedy is to remove the official from office, since the failure to perform duties imposed by law is a violation of the oath of office.

These bills, like all other House bills not going to a second committee, will be addressed by the House on or before March 17. Given the committee's recommendations on these three bills, it is likely that only [HB 1567](#) will be moving on to the Senate.

Opioid Abatement Trust Fund Allocations

On **Wednesday, March 9**, the **House Ways and Means Committee** voted unanimously to recommend [HB 1565](#), relative to the opioid abatement trust fund allocations, for Interim Study. The committee noted that any legislation that will affect the allocation of all future settlements needs to be studied carefully.

In 2020, [HB 1639](#) created the opioid abatement trust fund and established an advisory commission to oversee this fund. The Department of Health and Human Service (DHHS), in collaboration with the commission, is tasked with ensuring these funds support programs associated with the prevention, treatment, and recovery of substance use disorders.

Under [RSA 126-A:83, II](#), all funds received from opioid settlements are to be used for opioid abatement purposes, with 15% being distributed to those counties, cities, and towns that brought their own opioid lawsuits prior to September 1, 2019. The remaining 85% of those funds are deposited into a dedicated opioid abatement trust fund to be distributed to other political subdivisions and qualifying non-governmental programs.

In 2021, the first allocation of \$414,359.00 (15 percent of funds received) was distributed to the 23 political subdivisions that signed onto the settlement. In 2022, the 15 percent allocation to the 23 political subdivisions is \$2,762,394. As recently as this week, another \$46 million settlement involving Purdue Pharma has been proposed as New Hampshire's allocation in the Sackler family bankruptcy plan. This is in addition to the estimated \$115 million settlement that will be distributed over the next 18 years to all 10 counties, as well as 31 municipalities and 5 school districts that had signed onto the agreement with the three major pharmaceutical distributors: Cardinal Health, Inc., McKesson Corporation, and Amerisource Bergen Corporation. Other settlements from opioid manufacturers are expected to follow. These funds and their allocations will be instrumental in combating the opioid epidemic and deterring a future crisis over the next two decades.

As hundreds of millions of dollars in settlement funds are negotiated for New Hampshire, we continue to encourage local officials from municipalities involved in the litigation and those looking to start opioid abatement programs to share your concerns with your legislators.

Stiff Opposition to Privacy Bill

On Tuesday, the **Senate Election Law and Municipal Affairs Committee** heard testimony on [HB 597](#) as amended by the House. The bill establishes an “expectation of privacy in personal information” and states that “[n]o municipal, county, state, or federal department, agency, employee, elected official, or contractor shall, acquire, collect, retain, or use any personal information of any individual residing in New Hampshire from any third-party provider,” subject to six exceptions.

This bill has had a long life before coming to the Senate. It was originally filed last year, retained by the House, and worked on over the summer and fall by the House committee, resulting in an amendment, which was adopted by the House prior to passage of the bill. NHMA has opposed the bill throughout the process primarily because the vague and undefined language of the bill would have serious, unintended consequences for municipal government. Tuesday’s hearing saw testimony on the bill not only from a municipal attorney, who raised additional concerns, but also from law enforcement, the Business and Industry Association, and other private industry groups who identified the language of the bill as prohibiting activities commonly engaged in by a wide swath of New Hampshire businesses.

Although not taking a position, the Department of Justice provided additional, extensive testimony highlighting how **HB 597** would cut into a grand jury’s ability to investigate, and that none of the six exceptions would allow a grand jury to perform the kind of work that it ordinarily engages in. Additional testimony by a police chief highlighted other difficulties for law enforcement’s investigative capacities created by the language of the bill.

Of particular interest to municipalities, testimony from a city attorney highlighted the issues created by the bill’s language. Some issues included sharing information between governmental and semi-governmental entities, such as public water systems and city officials; the lack of exception for municipal regulatory agencies; and issues related to the penalty provisions contained within the bill.

We are hopeful that the testimony presented Tuesday demonstrated to the committee that **HB 597** will have serious, negative implications for the state and should be recommended as Inexpedient to Legislate. However, municipal officials with additional concerns are urged to [contact committee members](#) to express their concerns with the language of the bill.

Bill Would Reduce Municipal NHRS Costs

On Wednesday, the **House Finance Committee-Division I** held a work session on [HB 1417](#), which proposes to reinstate a portion (7.5 percent) of the state contribution to the employer’s share of the New Hampshire Retirement System (NHRS) cost for teachers, police, and firefighters. Unfortunately, the bill was recommended Inexpedient to Legislate by a 4-2 vote of the division. This bill will now move to the full **House Finance Committee** on **Wednesday, March 23, at 10:00 a.m., in LOB room 210-211**, where the Division I recommendation *can* be overturned with your support.

Over the last decade, the state has downshifted 100 percent of the employer contribution cost to the municipalities. Prior to 2012, the state contributed up to 35 percent toward these costs. Although a 7.5 percent contribution would restore far less than the state’s original 35 percent share (estimated to be \$129 million), this bill would provide an estimated \$27.7 million in relief in fiscal year 2023 alone.

NHMA requested data from cities and towns to demonstrate the effect this legislation would have. It is clear from the responses of the 65 survey participants that this bill would provide significant and much-needed local tax relief. For example, a 7.5 percent state contribution translates to \$2 million for one New Hampshire city and 11 cents off the tax rate for another. One town estimates that this contribution totals 1 percent of its municipal budget while another estimates a 1.8 percent budget reduction. With this information, we will continue to advocate for this legislation—but we need your help.

We are encouraging our members to contact their state representatives and the full [House Finance Committee](#) *before Wednesday, March 23*, to ask the state to live up to its 2012 promise that it would reinstate a portion of the employer contribution when the state’s fiscal position improved. The state continues to report revenues that exceed projections and estimates. With your voice, we can keep this bill moving forward.

Last Call for Volunteers

NHMA’s biennial legislative policy process is getting underway. As a first step, we are recruiting volunteers to serve on our three legislative policy committees. These committees will review legislative policy proposals submitted by local officials and make recommendations on those policies, which will go to the NHMA Legislative Policy Conference in September.

And we are still looking for volunteers!

If you are a municipal official in an NHMA member municipality and are interested in serving on one of the policy committees, please contact the Government Affairs staff at 603-224-7447 or governmentaffairs@nhmunicipal.org.

Each of the committees deals with a different set of municipal issues. The committees and their subject areas are as follows:

- Finance and Revenue – budgeting, revenue, tax exemptions, current use, assessing, tax collection, retirement issues, education funding.
- General Administration and Governance – elections, Right-to-Know Law, labor, town meeting, charters, welfare, public safety.
- Infrastructure, Development, and Land Use – solid/hazardous waste, transportation, land use, technology, environmental regulation, housing, utilities, code enforcement, economic development.

When you contact us, please indicate your first and second choices for a committee assignment. We will do our best to accommodate everyone’s first choice, but we do need to achieve approximately equal membership among the committees. We hope to have 15-20 members on each committee.

There will be an organizational meeting for all committees on **Friday, April 1**. After that, each committee will meet separately as many times as necessary to review the policy proposals assigned to it—typically three to five meetings, all held on either a Monday or Friday, between early April and the end of May.

HOUSE CALENDAR

There are no hearings in the House on bills of municipal interest.

SENATE CALENDAR

MONDAY, MARCH 14, 2022

ELECTION LAW AND MUNICIPAL AFFAIRS, Room 100, SH

1:00 p.m. **HB 1029**, relative to the Claremont police commission.

WEDNESDAY, MARCH 16, 2022

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 103, SH

9:30 a.m. **HB 1497-FN**, relative to optional allowances in the retirement system.

10:00 a.m. **HB 1318-FN-L**, relative to penalties for employer noncompliance with retirement system requirements.

House Floor Action

Thursday, March 10, 2022

CACR 14, relating to unions. Providing that all workers have the right to join a union. **Inexpedient to Legislate.**

CACR 22, relating to elections. Providing that all elections in New Hampshire shall be by ranked-choice voting. **Inexpedient to Legislate.**

HB 314, relative to homestead food operation licensure. **Passed.**

HB 1000, prohibiting motorcycle profiling. **Passed.**

HB 1008, establishing a commission to study the structure and election calendar of New Hampshire municipal government. **Inexpedient to Legislate.**

HB 1021, prohibiting regulation of religious land use based on the religious nature of the assembly or speech taking place on the land or in the structure. **Passed.**

HB 1025-FN, relative to impeding, provoking, or harassing law enforcement officers. **Inexpedient to Legislate.**

HB 1026, relative to budget information provided to a budget committee. **Passed.**

HB 1031, prohibiting law enforcement from encrypting public frequencies. **Tabled.**

HB 1068, relative to building codes for tiny houses. **Inexpedient to Legislate.**

HB 1109, relative to approval for off highway recreational vehicles use on class V and class VI roads. **Passed with Amendment.**

HB 1122, authorizing municipalities to collect and resell construction and demolition debris. **Passed.**

HB 1124, requiring businesses to use the federal E-Verify system of the United States Citizenship and Immigration Services. **Inexpedient to Legislate.**

HB 1128, relative to financial liability for damage caused by OHRV use of class VI roads. **Inexpedient to Legislate.**

HB 1143, relative to medical mandates adopted by employers. **Inexpedient to Legislate.**

HB 1147, relative to governmental records available upon request. **Inexpedient to Legislate.**

HB 1151-FN, prohibiting the display of a deadly weapon at a parade, funeral procession, picket line, march, rally, vigil, or demonstration. **Inexpedient to Legislate.**

HB 1156-FN, requiring certain public servants to receive a copy of a pre-employment background investigation. **Inexpedient to Legislate.**

HB 1157, relative to electronic ballot counting devices. **Passed.**

HB 1167, establishing a maximum contaminant level for perfluorinated chemicals in surface water. **Interim Study.**

HB 1174, relative to election challengers. **Passed with Amendment.**

HB 1175, relative to recording interactions with public officials. **Tabled.**

HB 1183, relative to the calculation of property taxes for residents 75 years of age and older. **Inexpedient to Legislate.**

HB 1185, relative to treatment of water contaminated with perfluorinated chemicals. **Passed with Amendment.**

HB 1188, establishing a commission to study OHRV use in the state. **Passed with Amendment.**

HB 1195, relative to public comment periods at public meetings. **Passed with Amendment.**

HB 1216-FN, repealing the housing appeals board. **Inexpedient to Legislate.**

HB 1254, relative to the housing appeals board. **Inexpedient to Legislate.**

HB 1257-FN, requiring the retirement system to divest from investment in companies located in China. **Inexpedient to Legislate.**

HB 1260, making immunization status a protected class. **Inexpedient to Legislate.**

HB 1275, relative to municipal representation on regional planning commissions. **Inexpedient to Legislate.**

HB 1277, relative to the reporting of cybersecurity incidents. **Passed.**

HB 1282, relative to the records of communication common carriers. **Passed.**

HB 1315, relative to immunity from civil liability for sports officials. **Inexpedient to Legislate.**

HB 1322, modifying the governmental records exempted from RSA 91-A. **Inexpedient to Legislate.**

HB 1351, prohibiting certain employers from requiring a COVID-19 vaccination as a condition of employment. **Inexpedient to Legislate.**

HB 1358, requiring public and private employers to establish procedures and exceptions for the use of mandatory intrusive testing as a condition of new or continued employment. **Inexpedient to Legislate.**

HB 1359, relative to the election-day duties of incumbent election officials who also appear on the ballot. **Inexpedient to Legislate.**

HB 1377, relative to unemployment benefits for employees terminated for refusing to comply with a vaccine mandate. **Inexpedient to Legislate.**

HB 1385, prohibiting the use of credit history in employment decisions. **Inexpedient to Legislate.**

HB 1387, enabling municipalities to adopt a property tax homestead exemption. **Inexpedient to Legislate.**

HB 1415, relative to employer health screening reimbursement. **Inexpedient to Legislate.**

HB 1430-FN-A, repealing the tax on rentals of motor vehicles under the meals and rooms tax. **Inexpedient to Legislate.**

HB 1440, relative to surface water quality standards for perfluorinated chemicals. **Interim Study.**

HB 1445-FN, relative to the identification of police vehicles. **Interim Study.**

HB 1450-FN, including agricultural resources under the land and community heritage investment program. **Inexpedient to Legislate.**

HB 1494, relative to a property tax exemption concerning certain communications services leases. **Inexpedient to Legislate.**

HB 1549, relative to special duty hours worked by retired police members in the retirement system. **Inexpedient to Legislate.**

HB 1555-FN, repealing the permit required for fires at campgrounds. **Tabled.**

HB 1569-FN, relative to the status of “totally unemployed” for purposes of unemployment compensation. **Inexpedient to Legislate.**

HB 1570-FN, relative to reducing vehicle registration fees. **Inexpedient to Legislate.**

HB 1602-FN, relative to perfluorinated chemicals in drinking water. **Interim Study.**

HB 1620, identifying part of the Merrimack River as a protected river. **Interim Study.**

HB 1681-FN, relative to the state building code. **Passed with Amendment.**

2022 NHMA UPCOMING MEMBER EVENTS

Mar. 15	Webinar: Unite with US in NH: A Coordinated Care Network– 12:00 – 1:00
Mar. 23	Webinar: Overview of Treasury’s Final Rule for ARPA Funds– 12:00 – 1:00
Apr. 1	NHMA’s Legislative Policy Process Organizational Day: 9:00 a.m.

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.