

LEGISLATIVE BULLETIN

Legislative Bulletin

2024 Session

January 5, 2024

Live Bill Tracker

Welcome Back!

The House and Senate held their first sessions of the year on Wednesday and Thursday this week, and the Senate has already begun holding public hearings. House hearings begin nextweek.

This is already a record year. We understand that more bills were held over from last year than any year before (including several important municipal bills), and a record number of bills relating to municipalities were filed this year. In fact, just about 45% of all bills being considered by the legislature this year directly impact municipalities. **In numerical terms, that's 440 bills for our small team to follow.**

Please visit our online [Bill Tracker](#) to get updates on all those bills. The Government Affairs Team has been hard at work reading through bills and has assigned positions (support, oppose, or neutral) to most of those bills. We will continue updating that tracker as we gather more information and take positions on those bills.

Also, our [Legislative Preview Webinar](#) will occur at noon today. If you miss it, it will be recorded and available for review by early next week.

Decreasing Administrative Costs of Development

The **House Municipal and County Government Committee** begins its hearings on the morning of **January 9, at 10:00 a.m.**, the committee will hear [HB 1086](#), which would allow municipalities to post public notice for zoning board of adjustment hearings on the town website, if available, instead of in a newspaper publication. If enacted, this would dramatically decrease the costs of publication of notice, which, in many cases, is paid by the applicant.

NHMA supports legislation that promotes a collaborative approach between the state, municipalities, and other key stakeholders to address the state's housing shortage. Decreasing unnecessary costs is a key component to decreasing the cost of building. Please contact the [House Municipal and County Government Committee](#) in support of **HB 1086**.

A Local Option Public Safety Assessment Fee

On Tuesday, January 9, at 11:30 a.m. in LOB room 202-204, the House Ways and Means Committee will hear testimony on [HB 1254](#), enabling a local option for municipalities to collect a fee for public safety assessments on hotel occupancies. The fee would allow municipalities to pay for the increased cost of municipal services associated with increased tourism and transient traffic through a non-lapsing dedicated fund. **Please**

contact members of the committee and ask them to recommend this bill as Ought to Pass or consider testifying at the hearing.

Important RTK Bill To Be Heard January 17

On January 17, at 9:00 a.m. in LOB 206 - 208, the House Judiciary Committee will hear testimony on **HB 1002**, which seeks to strike a balance between large records requests that cost municipalities days of work and thousands of dollars and the need to comply with these large requests. **NHMA supports HB 1002.**

Despite the carefully crafted protections for requestors, we anticipate that this will be a divisive bill that will require our members to contact their representatives to explain how **HB 1002** will both help ensure that the requestor receives the right information and assist municipalities in managing large requests.

First, the bill provides for a local option fee (up to a statutory limit) for requests that take more than 10 hours to fulfill. In speaking with dozens of local officials in the fall, none reported that routine Right-to-Know Law requests take longer than 10 hours to fulfill. In fact, all agreed that routine requests take substantially less time, so the bill's 10-hour threshold means all routine requests will be completed without any additional fee (even if your municipality adopts one).

Second, **HB 1002** adds language into the Right-to-Know Law statute to encourage cooperation between requestors and municipalities. We all know that the average person often knows what kind of information they want (e.g., "I want to know about some kind of action taken by the municipality") but often doesn't know which municipal records may reveal that information. That can lead to overly broad requests which could be cleared up with a simple conversation so that municipal resources are not spent producing the wrong records.

Finally, the bill helps promote that cooperation and eliminates the possibility of a surprise bill by requiring the municipality to estimate the cost of making the record available if the additional local option fee will be triggered. No local officials we spoke to said they can make all the records available within 5 business days for large records requests. Instead, our members need time to determine whether the records exist, gather them, examine them for exemptions for disclosure, and, finally, make them available. The Right-to-Know Law already requires that municipalities estimate the time needed to respond, meaning municipalities can generate an estimate of the cost of compliance. We believe that this will naturally lead to a discussion between requestor and municipality, improving the efficiency and accuracy of Right-to-Know Law requests and responses.

We are hopeful local officials will be available to testify in support of HB 1002 on January 17. If, however, you are unavailable, we ask you to contact all your local House members and explain the costs incurred when your municipality receives a large request. Many of you have told us that, on the rare occasion that you have received such a request, your ability to provide other services for residents has suffered because of the need to comply, your legal budgets for the year has needed to increase drastically, and your ability to provide requestors making a routine records requests with the information they seek in a timely manner has been made more difficult.

Anti-Lobbying Bill Returns

Unfortunately, the anti-lobbying bill has returned for yet another year. Once again, NHMA is leading the effort with our many partner organizations to kill **HB 1479** in the House. Once again, we remind you that the bill would affect **any** organization that supports or opposes legislation at the state house on behalf of the public officials or employees it represents: police chiefs association, fire chiefs association, town clerks association, tax collectors association, health officers association, planners association, managers association, public works association—and the list goes on. And, once again, we ask you to **contact all your House members and ask them to vote against HB 1479.**

HB 1479 will be heard by the **House Legislative Administration Committee**. Although that committee has not yet scheduled a hearing, it is not too soon to start contacting the members of that committee via email or phone or an in-person meeting and asking them to vote **HB 1479 Inexpedient to Legislate**. (Please remember to cc: governmentaffairs@nhmunicipal.org on any correspondence for our records.)

Qualified Immunity Bill Returns

Unfortunately, the qualified immunity bill has returned for yet another year. Once again, NHMA is working closely with police and fire unions and other partners to kill **HB 1640** in the House. The bill is basically the same as 2023's **HB 647**, eliminating all relevant immunities and caps, making any violation of the state or federal constitution for unlimited damages, and making the employer financially liable for damages. Once again, we ask you to reach out to members of the **House Judiciary Committee** and ask them to vote **against HB 1640**.

New and Improved HB 436

On Wednesday, the House voted to pass **HB 436** as amended on a voice vote. As amended, this bill would appropriate \$50 million in fiscal year 2024 to the New Hampshire Retirement System (NHRS) to pay down the unfunded accrued liability. For fiscal year 2023, NHRS reported an unfunded liability of \$5.60 billion. Current actuarial valuations estimate that the unfunded liability accounts for over 75 percent of current employer rates borne solely by the participating employers and local taxpayers. The intent of **HB 436** is to pay down the UAAL on a more aggressive schedule, resulting in lowered future employer contribution rates and promoting a solvent, fiscally healthy, and financially sustainable defined benefit plan. Over a 20-year period a \$50 million dollar payment applied in FY 2024 could have a compounded savings impact of \$105 million. It is critical legislators hear from municipal officials on the importance of reducing employer contribution rates and moving toward a fully funded retirement system. **It is critical legislators hear from municipal officials on the importance of reducing employer contribution rates and moving toward a fully funded retirement system.**

HB 307 Update

Thank you all for responding to our legislative alert on December 28. Although the bill passed through the Senate virtually unchanged, it is now headed to Senate Finance where the committee will consider the financial implications of the bill. We are currently working with the Senate to see whether a compromise is possible. **If you have not yet contacted your senator and asked them to oppose HB 307, there is still time to do so.** Important points to remember about **HB 307** as written are:

- The bill would require taxpayers to pay a private citizen's attorneys' fees and costs in any Right-to-Know Law case where the municipality loses (unless the decision is later reversed). Even when the municipality acts on advice of counsel or interprets a gray area of the law, the taxpayers will be on the hook if the plaintiff ultimately succeeds. Even worse, a municipality could follow current law—and still be liable for attorney's fees and costs. This is because the NH Supreme Court can—and has, recently—reversed its own precedent, creating a different rule of law (e.g., the overturning of *Union Leader Corp. v. Fenniman* in 2020 with *Seacoast Newspapers, Inc. v. City of Portsmouth* and *Union Leader Corp. v. Town of Salem*.)
- The committee report states: “The bill clarifies that public bodies and public agencies may be awarded attorneys' fees provided that the court renders a judgment against the requester that is not reconsidered or reversed.” **However, the bill says that municipalities are entitled to attorneys' fees only “when the court finds that the lawsuit is in bad faith, frivolous, unjust, vexatious, wanton, or oppressive.”**

[Bill Hearings Schedule](#)

[NHMA Events Calendar](#)

[2023 Final Legislative Bulletin](#)

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

[Email: governmentaffairs@nhmunicipal.org](mailto:governmentaffairs@nhmunicipal.org)

Government Affairs Contact Information

Margaret M.L. Byrnes, Executive Director

Natch Greyes, Government Affairs Counsel

Katherine Heck, Government Finance Advisor

Timothy Fortier, Communications Coordinator

Pam Valley, Administrative Assistant

25 Triangle Park Drive, Concord, NH 03301

Tel: 603.224.7447