

LEGISLATIVE BULLETIN

Legislative Bulletin 18

2024 Session

May 3, 2024



[Live Bill Tracker](#)

It's "Non-Germane Amendment" Season

It's the point in the session where non-germane amendments are beginning to pop up. These are, mostly, pieces of legislation that the originating body passed but the other body did not. As such, the originating body will tack the language of the bill onto an unrelated bill that it believes that the other body is interested in passing.

Consequently, it is entirely possible that bills will get festooned with unrelated provisions as they move through the second body. Please continue to pay attention to the *Legislative Bulletin* as we will keep track and publish information about these non-germane amendments as they are published and become relevant to municipalities.

Hearing Scheduled for Mandatory 2-Unit ADU Bill

On **Tuesday, May 7, at 10:20 a.m.** in **State House 100**, the **Senate Commerce Committee** will hear testimony on [HB 1291](#), requiring that municipalities allow two ADUs (accessory dwelling units) in every zone where single-family homes are allowed, and allow one of those units to be detached. Current law requires municipalities to allow one attached ADU in every zone where single-family homes are allowed.

According to data produced by the New Hampshire Department of Business and Economic Affairs (BEA) [2022 Municipal Land Use Regulation Annual Survey](#), more than half of municipalities allow detached ADUs. According to [local news sources](#), more towns approved detached ADUs during the 2023 town meeting.

Additionally, local voters have considered and continue to consider whether it is appropriate to allow two ADUs in their neighborhoods.

In addition to allowing residents and local officials to craft and adopt local regulations that are tailored for each community, the state should continue to make smart investments in programs such as [Housing Opportunity Grants](#), which have already been given to over 60 municipalities in New Hampshire to help them kickstart their own, local zoning reforms, and have a demonstrated effect both across the state and elsewhere where they have been tried. These changes help open up larger tracts for redevelopment that, in conjunction with the local tax relief opportunities provided for in RSA 79-E, help promote [land value capture](#), which both minimizes tax burden and maximizes housing opportunities.

Statewide mandates will not move the needle because they will not capture the local conditions needed to ensure that municipalities are planning how to integrate infrastructure (roads, water, sewer, etc.) with services (police, fire, etc.) in a way that minimizes the tax burden on current landowners while also promoting growth that minimizes costs for developers who wish to either redevelop existing buildings or sites or build in new areas of town.

Please contact the members of the [Senate Commerce Committee](#) and explain to them how important local control is to your community and to the ability of local government to function efficiently and responsively to local needs.

Reversal of the SB 2 Adoption Process

On **Tuesday, May 7, at 10:10 a.m. in LOB Room 103**, the [Senate Executive Departments and Administration Committee](#) will hold a public hearing on [HB 1175](#). This bill would reverse the process for a town to adopt the official ballot referendum (SB 2) form of government, reinstating the pre-2019 procedure. **HB 1175** would place the question of adopting SB 2 directly on the official ballot. The question that would go on the ballot is prescribed by statute, and it provides almost no insight into the consequences of the vote: “Shall we adopt the provisions of RSA 40:13 (known as SB 2) to allow official ballot voting on all issues before the town on the second Tuesday of March [or April or May]?” That’s it. The question would no longer be discussed or debated at town meeting; it would be decided in the voting booth, where there is no opportunity for questions or explanation.

The transition to the SB 2 form of government sparks many questions. What is a deliberative session? What actions can be taken by the voters at the deliberative session? Are there different mandatory deadlines for the select board and budget committee for public hearings, collective bargaining agreements, and bonding warrant articles? What actions can be taken after the deliberative session? How is the ballot prepared for town meeting election day? What if the operating budget warrant article fails in an official ballot referendum (SB 2) municipality? What is the default budget? How is the default

budget calculated? These are just a few of the most frequently asked questions around the SB 2 form of government.

Under current law, the question of adopting SB 2 is debated and voted on by unofficial ballot at the business session of town meeting, rather than being placed on the official ballot. This ensures that voters have an opportunity to become fully informed about the consequences of making such a major change to their form of government before they are asked to vote on the question. The legislative body in a town is the town meeting, and traditionally almost all matters are voted upon in open town meeting—often referred to as the business session. A very limited number of matters are voted on by official ballot in a voting booth—election of officers, zoning amendments, and a few other scattered questions. All matters that have a significant effect on the town’s government are voted on at the business session, where they can be fully explained, discussed, and debated.

Please encourage your senator to oppose **HB 1175** and allow those communities who wish to transition to SB 2 to do so using their traditional town meeting process and preserve the current law.

Sober Homes

On **Tuesday, May 7, at 10:30 a.m.** in **LOB Room 103**, the **Election Law and Municipal Affairs Committee** will hear testimony on [**HB 1521**](#), requiring municipalities to treat homes being used as sober homes the same as they would be treated if they were not sober homes. *NHMA opposes **HB 1521***.

The argument that supporters have made is that the change would bring New Hampshire law in line with the Federal Fair Housing Act. However, U.S. Department of Housing and Urban Development and the U.S. Department of Justice guidance states:

“The Fair Housing Act makes it unlawful to refuse to make ‘reasonable accommodations’ to rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling, A ‘reasonable accommodation’ is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces.”

Furthermore, “[n]eutral laws that govern groups of unrelated persons who live together do not violate the Act so long as (1) those laws do not intentionally discriminate against persons on the basis of disability (or other protected class), (2) those laws do not have an unjustified discriminatory effect on the basis of disability (or other protected class), (3) state and local governments make reason able accommodations when such accommodations may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling.”

Additionally, the Building Code Review Board recommended state building code amendments BD-21-20-23, BD-21-21-23, BD-21-22-23, RE-21-32-23 R2, all of which also address sober homes. To the extent **HB 1521** duplicates those amendments, the bill is unnecessary.

Please contact the members of the [Senate Election Law and Municipal Affairs Committee](#) and encourage them to oppose **HB 1521**.

House Special Committee on Housing Executive Session

On **Thursday, May 9**, at **3:00 p.m.** in **LOB Room 302-304**, the **House Special Committee on Housing** will make its recommendation on the bills that it heard last week. Those include the [non-germane amendment](#) to **SB 527**, prohibiting local zoning or regulations from restricting the number of occupants in a residential rental property to less than two occupants per bedroom. If you have not already contacted the members of the [House Special Committee on Housing](#), please do so before the executive session.

Calendar Changes

If you are a long-time reader of the *Bulletin*, you will have noticed that the weekly schedule of hearings that we have long published has, increasingly, been out of date by the beginning of the week for which it is produced. That's because the shift in both the House and Senate to digital calendars has made it easier for committees to reschedule when there is bad weather, when there are absences, or when issues with bills just haven't quite been worked out. As such, we are now going to link to the [House Digital Calendar](#) and [Senate Digital Calendar](#) instead of producing our own hearing schedule. For those of you with a particular interest in a particular bill or set of bills, please use the "subscribe" feature on [FastDemocracy](#) to get email updates when those bills are scheduled.

[NHMA Events Calendar](#)

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