

LEGISLATIVE BULLETIN

House to Vote on Retirement Contribution

Bulletin 07 - 2017 Session
February 10, 2017

HB 413, which restores a portion (15 percent) of the state contribution toward the retirement costs of teachers, police and firefighters, is on the agenda for a House vote next week. We previously reported that the bill came out of the Executive Departments and Administration Committee with a very close Ought to Pass recommendation of 10 to 9. Passage of **HB 413** would lower the retirement costs for cities, towns, school districts, and counties by approximately **\$41 million per year**.

House members need to hear from you now about the impact this bill will have on property taxpayers, especially since the Governor’s proposed budget did not include even a modest restoration of the state retirement contribution.

To help you estimate how much your city or town will save by passage of **HB 413**, attached are two lists—[teachers](#) and [police/fire](#). These lists, prepared by the Legislative Budget Assistant’s Office, show the state retirement contributions attributed to each municipality from 2007 until 2012. The percentage of state contribution varied in those years, but the figures for 2011, which total \$44 million, are a reasonable estimate of the retirement cost reduction each local government entity would experience if **HB 413** passes.

*Please contact your representatives today and urge them to support the committee recommendation of Ought to Pass on **HB 413**.*

Vote on Right-to-Know Law Bill Delayed

The House was scheduled to vote this week on **HB 365**, the bill that would require a public entity to pay a prevailing plaintiff’s attorney fees in a Right-to-Know Law case even if the public officials did not know they were violating the law. The vote, however, was postponed to next week because one of the representatives who had signed up to speak was unable to attend. The House is in session next **Wednesday and Thursday, February 15 and 16**, and will vote on the bill on one of those days. This gives local officials a few more days to contact their representatives and urge them to **vote down the committee recommendation and kill HB 365**.

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The bill deletes language in the existing law that says a public body or agency is liable for the plaintiff's attorney fees only if the officials "knew or should have known" that their conduct violated the law. By removing that language, the bill requires the payment of attorney fees for innocent misunderstandings of the law.

We heard a few people comment this week that this change will give public officials an incentive to comply with the law. That makes no sense—they already *have* that incentive, because the law punishes intentional violations. Punishing public officials for an *unintentional* violation, as this bill does, is like punishing people for snoring. The snorer may stop snoring, but only because he'll be afraid to fall asleep. Similarly, the public official may avoid violating the law by choosing to avoid public service. How is that helpful? Please urge your representatives to **kill HB 365**.

Transportation Improvement Fee—Local Control At Its Best

On Tuesday the House Municipal and County Government Committee heard testimony on [HB 121](#), the **NHMA policy bill** that would increase from \$5 to \$10 the maximum fee that a municipality may collect annually for its transportation improvement fund. (See last week's [Bulletin](#) for further explanation of the fund.) This optional \$5 fee, originally enacted in 1997, has obviously lost a good deal of its buying power over the past 20 years. Raising the maximum amount to \$10 merely provides an inflationary adjustment.

Support for the bill came from local officials, regional transit organizations, a regional planning commission, and the Department of Environmental Services. No one spoke in opposition. NHMA, as well as others, emphasized the local control aspects of this bill—this fee, and the use of the money raised by the fee, are determined by the local legislative body (*i.e.*, town meeting or city council/board of aldermen). NHMA stressed that a vote in support of **HB 121** is NOT a vote to raise any fee, but rather a vote to allow the legislative body of a city or town to decide whether it wants to pay for road improvements, bridge repairs, public transportation services for the elderly and disabled, sidewalks, or bike paths with property tax dollars or with this user fee. Local control at its best!

If you haven't already done so, please contact members of the [Municipal and County Government Committee](#) and urge support of local control by recommending Ought to Pass on **HB 413**.

Goodbye to Trailer Registration Fees?

Despite opposition from the Division of Motor Vehicles, the New Hampshire City and Town Clerks Association, the New Hampshire Tax Collectors Association and NHMA, on Thursday the House Transportation Committee voted 9 to 7 to recommend [HB 579](#) as Ought to Pass. This is the bill, discussed in [last week's Bulletin](#), that allows non-government agents to register out-of-state semi-trailers at a significant discount compared to the fees for in-state residents. The primary issue is the potential loss of municipal registration fees from these types of vehicles when in-state residents realize they can merely claim an out-of-state residence and pay a much lower fee to register through these non-governmental agents. ***Municipalities concerned about this impact on motor vehicle revenues should urge their representative(s) to overturn the committee recommendation of Ought to Pass and instead vote Inexpedient to Legislate on HB 579.***

Governor Delivers Budget Address

On Thursday Governor Sununu presented his biennial budget proposal to a joint session of the House and Senate, describing the \$12 billion budget as “responsible, focused and fair.” Besides funding state agencies and programs, this is an opportunity for the Governor to present new initiatives, and he did so with the creation of an Infrastructure Revitalization Fund (IRF). Any surplus funds beyond those necessary to ensure \$100 million in the revenue stabilization fund (*i.e.*, the “rainy day” fund) at June 30, 2017, would be placed into the IRF and used to target key areas of need to municipalities, including:

- doubling the amount of road and bridge aid grants to address deferred maintenance issues at the local level;
- boosting school building aid for classroom infrastructure; and
- fully funding Granite Hammer, a program to fight the opioid epidemic.

The surplus statement provided with other budget documents shows a projected \$84.4 million available at June 30, 2017, to go into the IRF, barring any unexpected expenses before the end of the state fiscal year. We have requested further information from the Governor’s office about the IRF and will report more details about this fund when known.

Governor Sununu also noted the work done by the Senate President last year to secure \$300 million (from the Exxon Mobil MtBE lawsuit settlement) for a Drinking Water and Ground Water Trust Fund, stating that this money “*stands ready to be invested in vital infrastructure improvements across the state. Funds can now be used in partnership with local communities to secure one of our most precious resource.*”

While we were encouraged by the emphasis on local roads, bridges and drinking water, we were very discouraged to see the meals and rooms tax distribution frozen for the next two years at the fiscal year 2017 level of \$68.8 million; this means that the catch-up formula, which provides up to \$5 million of additional funding per year, would be suspended (yet again) under the Governor’s plan. Based on the meals and rooms tax revenue projections for fiscal years 2018 and 2019, this would drop the municipal funding level to approximately 20 percent—half of the statutory funding level of 40 percent promised when the tax was enacted.

Other budget items of interest to municipalities include:

- Funding for existing state aid grants for water and wastewater projects, but not for projects listed in [HB 119](#) or [SB 57](#);
- Flood control funding at \$866,250 each year, assuming payments are received from other states involved in the flood control compacts;
- Funding of \$3.5 million each year for the Land and Community Heritage Investment Program (LCHIP);
- Full funding from the general fund for Police Standards and Training;
- \$9 million each year for targeted full-day kindergarten programs based on a measure of relative community need.

Revenue sharing remains suspended, and there does not appear to be any money included for the reinstatement of a portion of the state share of local retirement contributions for teachers, police, and firefighters.

(Budget Address— Continued from Page 3)

The Governor’s budget proposal will likely be drafted as HB 1, accompanied by HB 2, which will contain the statutory changes necessary to implement the budget. The House Finance Committee will begin a detailed review of the Governor’s budget proposal and will no doubt make many changes based upon the committee’s priorities and preferences, before sending its version to the Senate to do the same. We will update you weekly as this important piece of legislation makes its way through the process.

Check these links for copies of the Governor’s [budget address](#), the [budget document](#), and the [executive summary](#).

Mandatory Water Connections for Well Owners?

A bill released last week, allowing owners of contaminated wells to connect to public water supplies, has caused quite a stir, and not surprisingly. The bill, [SB 240](#), states that if a well is discovered to be contaminated by man-made contaminants and there is at least a 10 percent increase in the contaminants a year after the initial discovery, the owner of the well “shall be connected to the public water system at cost to the municipality in which such well is located.”

Yikes! As the fiscal note to the bill indicates, the cost to municipalities could be in the tens of millions of dollars. We have reason to believe, however, that the bill’s language does not reflect the sponsors’ intent. In fact, we understand that an amendment is in the works. Needless to say, we will oppose any legislation that makes municipalities bear the financial burden for contaminated wells, but we are optimistic that the amended bill will not take that approach. We encourage vigilance but not panic.

The bill is scheduled for a hearing next **Wednesday, February 15, at 10:00 a.m., in LOB Room 102**, before the Senate Public and Municipal Affairs Committee. Please attend if you want to know what the amended bill proposes, or contact us with questions. We will have an update in next week’s *Bulletin*.

Custom Design For SB 2?

On January 11, the House Municipal and County Government Committee heard testimony on **HB 182**, another in a string of bills over the years that alter the budget adoption process in SB 2/official ballot municipalities and school districts. As noted by the committee, since SB 2 was adopted in 1995 there have been innumerable bills to change how it works. One of the most frequent subjects of legislation is the default budget, which, for those not familiar with the SB 2, process is how the town determines a dollar amount for its budget should the voters turn down the operating budget in the voting booth.

Mindful that a change in the statute changes the way SB 2 works in *all* municipalities that have adopted it, the Municipal and County Government Committee has been loath to recommend changes. The committee is going to take the opportunity presented by **HB 182** to consider a new process for SB 2 jurisdictions that would allow local voters, using an amendment procedure to be set forth in statute, to make custom changes for their own municipality only, without continually pestering the legislature to make changes to SB 2 that would affect everyone.

(SB 2— Continued from Page 4)

Under the amendment, voters could modify the provisions of SB 2 relative to

- the finalization process for the budget,
- the process for public hearings, debate, discussion, and amendment of questions to be placed on the official ballot,
- the definition and calculation of the default budget,
- the procedures for the transfer of funds among various departments, funds, accounts and agencies, and
- the applicability of the official ballot procedure to special meetings.

A work session on this amendment is set for **Tuesday, February 21, at 10:00 a.m., in LOB Room 301**, and the executive session on the bill will be at **11:00 a.m.** that same day. The amendment is to be printed in the House calendar. Please let us know what you think of this proposed local amendment process.

Committee Votes Against Local Option for Appointed Clerks

On February 1, the House Municipal and County Government Committee heard testimony on **NHMA policy bill [HB 325](#)**, which would allow towns operating under a charter to let their voters decide whether the town should have an elected or an appointed town clerk. On Tuesday of this week, the committee recommended killing the bill.

Articulate and compelling testimony was offered by elected and appointed officials from towns that support this measure. At the executive session, it was claimed that because the position is mentioned in the New Hampshire Constitution, it was intended to be elected—although nothing in the constitution supports that conclusion. We also heard that if a town wants to appoint a town clerk, it should become a city.

It baffles us why this local control measure is so hard to accept. There are only eight towns in the state that **HB 325** would affect, and while they already operate more like cities than towns, they want to maintain their status as a town. That is exactly what the legislature envisioned when it enacted RSA chapter 49-D, which allows towns to adopt local option town charters. RSA 49-D:1, the purpose and intent section of that chapter, states:

It is the intent of the general court to recognize that while the pressures of growth, demand for services and complexity of governmental issues may compel citizens to consider alternative forms of governance of towns, which forms have the same or similar structural appearance and powers traditionally found in cities, that the preservation of a community's unique sociological and cultural heritage and history as a town be encouraged by the provision of the optional forms of town government described in this chapter.

Some towns have a clerk they love and want to keep without requiring him/her to run for re-election every year, or every three years. Other towns have had difficulty getting qualified candidates to run for town clerk, especially given all the other duties bestowed upon clerks by the statutes. Perhaps it is time to look at authorizing towns to delegate those other responsibilities to someone other than the elected clerk.

Repeal of Expanded Medicaid

The House Health, Human Services and Elderly Affairs Committee has a hearing scheduled for next **Tuesday, February 14, at 1:15 p.m., in LOB Room 205**, on [HB 638](#), which would repeal the New Hampshire Health Protection Program, more commonly referred to as expanded Medicaid. NHMA has supported this program because (among other reasons) it appears to have resulted in significantly reduced local welfare costs. The bill's fiscal note also explains that the program uses no general fund revenue and results in millions of dollars in avoided general fund costs. We will oppose **HB 638**. Please encourage your representatives to do the same.

Short-Term Rentals To Be Studied

There was some good news this week on [HB 654](#), the bill we reported on in [last week's Bulletin](#) that would have severely limited municipalities' zoning authority with respect to short-term rental operations. Recognizing that such a dramatic step should not be taken lightly, the House Commerce Committee has proposed an amendment that replaces the entire bill with the creation of a committee to study "the regulation and taxation of vacation rentals and short-term rentals."

The amended bill was recommended unanimously and is on the consent calendar for next week. We certainly support this approach and commend the committee for its action.

HOUSE CALENDAR

TUESDAY, FEBRUARY 14, 2017

ELECTION LAW, Room 308, LOB

- 10:00 a.m. **HB 616-FN-L**, relative to persons executing election affidavits.
10:20 a.m. Continued public hearing on **HB 348-FN**, relative to registering to vote.

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

- 10:00 a.m. **HB 342**, establishing a commission to study the transition of certain regulatory authority to the department of environmental services from the Environmental Protection Agency.

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Room 205, LOB

- 1:15 p.m. **HB 638-FN-L**, repealing the New Hampshire health protection program.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. **HB 585-FN-L**, abolishing fluoridation in water.

WAYS AND MEANS, Room 202, LOB

- 10:30 a.m. Continued public hearing on **HB 539-FN-A-L**, relative to the distribution of occupancy revenues under the meals and rooms tax to towns and cities.

TUESDAY, FEBRUARY 21, 2017

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB

- 1:30 p.m. **HB 366-FN**, relative to the calculation of average final compensation under the retirement system for certain members.

LEGISLATIVE ADMINISTRATION, Room 104, LOB

- 11:45 a.m. **HB 394**, relative to public employees testifying before legislative committees.

WEDNESDAY, FEBRUARY 22, 2017

TRANSPORTATION, Room 203, LOB

- 10:00 a.m. **HB 432**, relative to enforcement of parking prohibitions.
10:30 a.m. **HB 492**, relative to motorized scooters and wheelchairs operating on public streets.
11:00 a.m. **HB 648-FN**, relative to van parking for persons with disabilities.

SENATE CALENDAR

MONDAY, FEBRUARY 13, 2017

HEALTH AND HUMAN SERVICES, Room 101, LOB

- 9:45 a.m. **SB 236-FN**, making the Medicaid expansion law permanent.

TUESDAY, FEBRUARY 14, 2017

COMMERCE, Room 100, SH

- 1:45 p.m. **SB 83-FN-L**, relative to the state minimum wage.

ELECTION LAW AND INTERNAL AFFAIRS, Room 102, LOB

- 9:00 a.m. **SB 194-FN**, authorizing online voter registration.
9:20 a.m. **SB 107**, establishing an independent redistricting commission. **NHMA Policy.**

TRANSPORTATION, Room 103, LOB

- 2:00 p.m. **SB 243-FN-A**, relative to complete streets policies, establishing a complete streets pilot program, and making an appropriation therefor. **NHMA Policy.**

WEDNESDAY, FEBRUARY 15, 2017

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

- 10:00 a.m. **SB 240-FN-L**, allowing owners of certain contaminated wells access to municipal water systems.

WAYS AND MEANS, Room 100, SH

- 9:00 a.m. **SB 186**, establishing a committee to study the tax characterization of stormwater utility fees. **(THE PREVIOUS HEARING FOR SB 186 WAS RECEESSED ON FEBRUARY 1ST)**

New 2017 Senate Bill

SB 247-FN-A makes various changes in the laws regarding lead, including a requirement that public water systems make reasonable efforts to identify and disclose lead components that are in contact with drinking water. Sen. Feltes of Concord; **HHS.**

HOUSE FLOOR ACTION

Thursday, February 9, 2017

- HB 87**, relative to vacancies in the office of moderator. **Passed.**
- HB 108**, relative to municipal record retention and conversion. **Passed with Amendment.**
- HB 109**, exempting certain building plans from the right-to-know law. **Inexpedient to Legislate.**
- HB 118**, relative to appropriations in petitioned warrant articles. **Inexpedient to Legislate.**
- HB 123**, relative to continuation of a public hearing of the zoning board of adjustment. **Passed.**
- HB 124-FN**, repealing certain aircraft registration fees. **Passed.**
- HB 145**, requiring municipal approval for siting high voltage transmission lines. **Inexpedient to Legislate.**
- HB 154**, relative to interference with traffic devices. **Passed with Amendment.**
- HB 173**, relative to regulations restricting the use of water for outdoor usage. **Passed with Amendment.**
- HB 299**, relative to notice by mail for zoning and planning purposes. **Passed.**
- HB 359-FN-A-LOCAL**, relative to returning a percentage of the LCHIP fee to the municipality where the real estate transfer from which the fee originates is located. **Inexpedient to Legislate.**
- HB 379**, relative to political advertising in rights-of-way. **Inexpedient to Legislate.**
- HB 382**, prohibiting electronic warrants. **Inexpedient to Legislate.**
- SB 12-FN**, repealing the licensing requirement for carrying a concealed pistol or revolver. **Passed.**

SENATE FLOOR ACTION

Thursday, February 9, 2017

- SB 36**, establishing a committee to study the Laconia state school property. **Passed.**
- SB 56-FN-A-L**, relative to adequate education grant payments to certain municipalities. **Passed with Amendment.**
- SB 57-FN-A**, making appropriations to the department of environmental services for the purposes of funding eligible drinking water and wastewater projects under the state aid grant program. **Tabled.**
- SB 58**, relative to the authority of the department of state. **Passed.**

(Senate Floor Action — Continued from Page 8)

SB 80, relative to implementation of the all veterans' tax credit. **Passed with Amendment.**

SB 116, requiring notice to affected municipalities of energy facility siting. **Passed.**

SB 117-FN, establishing the stormwater management and flood resilience fund within the department of environmental services. **Passed with Amendment.**

SB 124, establishing a commission to study municipal regulation and incentives for solar energy. **Passed.**

Upcoming Events for NHMA Members

Postponed (from Feb. 11) to Saturday, February 25, 2017

Moderator's Workshop for Traditional Town Meeting

Please visit our [website](#) for upcoming NHMA events.
See **CALENDAR OF EVENTS** on the left and click *View the Full Calendar*;
scroll down to the event you are interested in to register.