

LEGISLATIVE BULLETIN

Bulletin 11 - 2017 Session
March 10, 2017

Town Meeting Week!

Moderators, town clerks, and checklist supervisors all over New Hampshire are dusting off their gavels, ballot boxes, and red pens in preparation for the biggest week of the year. We wish everyone a productive and low-stress week. At the risk of making more work for ourselves, we remind you that the NHMA legal services hotline is available for those thorny, last-minute town meeting-related questions.

Not to be alarmists, but considering the five-day forecast for parts of the state, moderators are encouraged to brush up on the provisions of [RSA 40:4, II](#)!

Approaching Crossover

It was a frenzied week in the House, as yesterday was its deadline to act on all bills not in a second committee. The House took action on over 200 bills in its sessions on Wednesday and Thursday. There were some good things and some bad things for municipalities, and we will sort them out and report on what comes next as House bills head to the Senate over the next few weeks.

Apart from the very large item that is the state budget, there will be a bit of a lull in the House as it gets ready to begin hearings on Senate bills, most of which are still *en route*. The Senate is facing its own deadlines and will be pumping out a slew of bills in the next two weeks. By the end of March, all House bills (except budget bills) will be either dead or on their way to the Senate, and the converse for Senate bills.

State Budget Update

The House Finance Committee held two public hearings this week on the Governor's proposed budget currently contained in [HB 1](#) and [HB 2](#); another public hearing is scheduled for **Monday, March 13, at 3:00 p.m., in Representatives' Hall at the State House**. The Finance Committee continues its detailed review of the operating budget, with state agencies discussing differences between their requested budgets and the budget as recommended by the Governor.

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We provided a lengthy explanation in last week's [Bulletin](#) regarding the level of state aid funding provided to municipalities in **HB 1** and the Infrastructure Revitalization Fund included in **HB 2**, along with updated [graphs](#) to illustrate the funding trends over past years. There had been few details discussed about the Infrastructure Revitalization Fund, which is intended to provide additional funding for state and local roads and bridges, school building aid, and other programs such as "Granite Hammer," which deals with the opioid epidemic. Money for this fund is supposed to come from the June 30, 2017 general fund surplus, the amount of which is currently unknown.

We will continue to monitor the Finance Committee meetings on the operating budget and again encourage all our members to talk with their representatives about the impact state budget decisions have on municipal services and property taxes back home.

Voter Domicile Bill a Mess for Local Officials

The Senate Election Law and Internal Affairs Committee heard testimony this week on **SB 3**, which narrows the definition of "domicile" for voter registration purposes and establishes stricter requirements to prove domicile for those who register at the polls or within 30 days before an election. More than 200 people turned out, almost all of them opposed to the bill, requiring the hearing to be moved to Representatives' Hall.

The hearing focused on [an amendment](#) that replaces the entire bill as introduced. NHMA did not take a position on the overall intent of the bill, but did express serious concerns about several of the bill's provisions.

One of those provisions requires the supervisors of the checklist to conduct a post-election domicile verification for anyone who registers at the polls and signs a domicile affidavit instead of showing proof of domicile. The verification is to be performed by (1) requesting local police officers to visit the person's claimed address and confirm that he or she was domiciled there before the election, or (2) asking the Secretary of State to send a letter of domicile verification, or (3) having two or more supervisors or other local officials visit the address to confirm that the person was domiciled there.

Clearly it is inappropriate for police officers or other local officials to be knocking on a voter's door to demand proof of domicile. Apart from the intimidation factor, this is not the job of police officers and other municipal officials, nor should the supervisors be placed in the position of requesting these services. It is not even clear what standards would be used to confirm domicile at that point.

Another problem is the extremely long and complex registration form that the bill would require for those registering on election day or within 30 days before. The form lists nine criteria for establishing domicile, but does not indicate whether one, or two, or more of those must be satisfied. Just reading the form carefully will require several minutes; when hundreds of voters are trying to register at one polling place on election day, this will create long lines and a significant burden for election officials.

THE EDGE

Sadly, we must report that no one answered all of [last week's quiz questions](#) correctly. We want to believe this is because people were more focused on their town meeting preparations. Once the hullabaloo is over, please take a few minutes to review the answers:

1. The question of adopting a local tax cap does not go on the official ballot. See RSA 32:5-c, V ("Voting on the question shall be by ballot, but the question shall not be placed on the official ballot . . .").

2. Voting on a question by secret ballot is specifically authorized for a town or school district meeting. See RSA 40:4-a. For any other legislative body, it would violate the Right-to-Know Law. See RSA 91-A:2, II.

3. Dorchester, Enfield, and Orange have adopted and then rescinded SB 2.

4. Hanover is the largest town with a traditional town meeting.

5. The penalty for failure of a town meeting participant to be silent at the request of the moderator is one dollar. See RSA 40:7.

6. A special town meeting may not be held on the same day as the biennial state election. See RSA 39:1.

The registration form also contains this statement: “I understand that if my domicile is at an abode rented, leased, or purchased by another and my name is not listed on the rental agreement, lease, or deed[,] I am required to provide a written statement . . . from a person who is listed on such document, . . . attesting that I reside at that address, signed by that person . . .” This apparently would require a registrant to bring a copy of his or her deed or lease to the polls, and if the person’s name is not on it, bring a letter from someone whose name is on the document. For example, an 18-year-old who lives with his parents would need a letter from a parent whose name is on the deed for his house; or a wife whose name is not on her property’s deed would need a letter from her husband.

Surely that is not what the sponsors intend. Election workers should not be put in the position of reviewing deeds and leases, and of telling a voter that he must produce a letter from his parents or spouse before registering. (And what if the spouse or parent refuses?)

This bill is obviously the focus of a partisan political battle, and NHMA is not interested in taking sides; but it will create huge problems for local election officials. Whether the bill’s intent is good or bad, it needs major changes to be acceptable. There is no state election this year, so there is no urgency for this legislation. If the necessary changes cannot be made before the Senate’s deadline, we encourage the Senate to either re-refer the bill for further work, or kill it so that a better bill can be brought forward next year.

Please urge your Senator, and especially members of the [Election Law and Internal Affairs Committee](#), to put the brakes on SB 3.

Semi-Trailer Registration Fees

On Tuesday, the House Ways and Means Committee heard testimony on [HB 579](#), dealing with the registration of semi-trailers. As we have reported in previous *Bulletins*, [HB 579](#) sets up a process for non-governmental registration agents to register semi-trailers from out-of-state residents for multiple years at a significant discount from what an in-state resident would pay. This process creates an incentive for residents from all over the country to violate their own state laws by registering these trailers in New Hampshire and puts in place a two-tiered registration system that would be more economically advantageous for non-residents than for New Hampshire residents. More importantly, it would also entice New Hampshire residents to violate our state law, allowing them to merely provide a real or fictitious out-of-state address to these non-governmental agents to pay the lower non-resident registration fees, ***resulting in the loss of municipal motor vehicle revenue.***

The Ways and Means Committee is the second House committee to consider [HB 579](#), with the specific purpose of reviewing both the state and local revenue implications of the bill. While this bill has been in the works for several years now, it remains unclear how much additional revenue could be generated for the state, whether any of that additional state revenue would be shared with municipalities, and the extent to which municipalities would lose local registration revenues. At the hearing an amendment was offered that would lower the registration fees by ten percent if the semi-trailer registration is for twelve years.

THE EDGE *(Continued)*

7. The default budget does not automatically take effect if the operating budget article fails. RSA 40:13, X, states, “If no operating budget article is adopted, the local political subdivision either shall be deemed to have approved the default budget *or the governing body may hold a special meeting . . . to take up the issue of a revised operating budget only . . .*” To our knowledge, no town has ever called a special meeting upon the failure of the operating budget, but it is an option.

8. The following actions require a two-thirds majority vote:

- Altering town lines after receiving legislative authorization (RSA 51:9);
- Acquiring or establishing a municipal utility plant (RSA 38:4);
- Changing the purpose of a capital reserve fund (RSA 35:16);
- Amending or repealing a zoning ordinance when a protest petition has been filed (RSA 675:5, I-a);
- Changing the source or fractional portion of revenue going into a special revenue fund or changing the purpose of expenditures from such a fund (RSA 31:95-d, V).



(Semi-Trailers— Continued from Page 3)

Again, there was no fiscal analysis of either the original bill or the amendment, just speculation regarding the fiscal impact based on limited data from other states. As we commented to the committee, since motor vehicle registration fees are the second largest revenue source after property taxes for most municipalities, any change in the law, particularly a change that could cause a loss in municipal revenue, is cause for concern. Additionally, the New Hampshire Division of Motor Vehicles and the New Hampshire City and Town Clerks Association continue to oppose this bill, citing numerous problems and conflicts with existing laws.

The Ways and Means Committee will vote on a recommendation on **HB 579** at its executive session **next Wednesday, March 15**. Please contact [members of the Ways and Means Committee](#) and urge them to heed the substantial concerns expressed by state and local officials and vote **Inexpedient to Legislate** on **HB 579**.

A Roller Coaster Ride on HB 121

On Thursday the House passed **HB 121**, an **NHMA policy bill** that increases from \$5 to \$10 the cap on the optional transportation improvement fee that municipalities may elect to charge as part of the annual motor vehicle registration fee—but not without a few thrills along the way! As you may recall, the bill came out of the Municipal and County Government Committee with a very strong (19-1) recommendation of Ought to Pass, and was placed on the consent calendar, a usually smooth ride to final House action.

However, on Wednesday a number of bills, including **HB 121**, were removed from the consent calendar and added to the very end of the very long two-day agenda. Late Thursday afternoon the House finally finished with the regular calendar bills and began dealing with those pulled from the consent calendar. After a number of those were tabled, a motion was made to adjourn the session, which would leave the eight remaining bills (four with Inexpedient to Legislate recommendations and four with Ought to Pass recommendations, including **HB 121**) to “die without prejudice”—a little-known status even to the seasoned lobbyists among us. Fortunately, the majority of House members rejected the motion to adjourn, opting instead to act on each of the remaining bills. **HB 121** passed on a voice vote with no debate and is now headed to the Senate.

Thank you to all House members for hanging on until the very end of two long session days and working your way through every agenda item!

RTK Attorney Fee Bill Finally Dead

As we previously reported, the House voted on February 16 to kill **HB 365**, the bill that would have required the defendant (often a municipality) in a Right-to-Know Law action to pay the plaintiff’s attorney fees if the plaintiff prevails, even if the defendants had no reason to know they were violating the law. A notice of reconsideration was filed the same day, leaving the bill’s fate in question until this week.

By a slim margin of 168-172, the House on Wednesday defeated the motion to reconsider, so the bill is now dead and buried. It cannot come back this year, and House rules prohibit the introduction of any bill that is “substantially similar” next year.

Once again, the closeness of this vote provides a reminder of how important your communications with legislators are. We know that many representatives opposed this bill based on what they heard from local officials. If only **two representatives** had voted the other way, this vote would have ended in a tie, and we have reason to believe the tie would not have been broken in our favor. If you talked two legislators into opposing this bill (and being present to vote against reconsideration), congratulations! You were responsible for killing this bill. **Every vote counts!**

HOUSE CALENDAR

MONDAY, MARCH 13, 2017

FINANCE, Representatives Hall

- 3:00 p.m. **HB 1-A**, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2018 and June 30, 2019.
HB 2-FN-A-L, relative to state fees, funds, revenues, and expenditures.

SENATE CALENDAR

TUESDAY, MARCH 14, 2017

JUDICIARY, Room 100, SH

- 10:15 a.m. **HB 178**, establishing a commission to study processes to resolve right-to-know complaints.

WEDNESDAY, MARCH 15, 2017

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

- 9:00 a.m. **HB 89**, relative to municipal revolving funds.
9:15 a.m. **HB 117**, relative to the property tax exemption for improvements to assist persons with disabilities.
10:00 a.m. **HB 144**, relative to procedures for adoption of the budget for Rockingham County.
10:15 a.m. **HB 163**, relative to the responsibility of a municipality to enforce its ordinances.

WAYS AND MEANS, Room 100, SH

- 9:15 a.m. **SB 185**, extending the community revitalization tax relief program to coastal properties subject to storm surge, sea level rise, and extreme precipitation.
9:30 a.m. **SB 187**, clarifying the application of the road toll.

HOUSE FLOOR ACTION

Wednesday, March 8, 2017

Thursday, March 9, 2017

HB 85, relative to installation requirements for arc-fault circuit interrupters and relative to the state building code review board. **Passed.**

HB 97-FN, relative to the use of drones. **Passed.**

HB 115-FN, establishing a state minimum wage and providing for adjustments to the minimum wage. **Inexpedient to Legislate.**

HB 121, relative to the maximum optional fee for transportation improvements charged by municipalities when collecting motor vehicle registration fees. **Passed.**

HB 122, relative to withdrawal from a cooperative school district. **Passed.**

HB 130, prohibiting an employer from using credit history in employment decisions. **Inexpedient to Legislate.**

HB 131, relative to the costs for notice of changes in a zoning district. **Passed.**

HB 170, relative to posting notice and minutes of public meetings on the public body's website. **Passed.**

(House Floor Action — Continued from Page 5)

HB 174, limiting jurisdiction of the superior courts over certain adequate education statutes and adequate education grants. **Inexpedient to Legislate.**

HB 181, relative to the maintenance of private roads abutting residential properties. **Inexpedient to Legislate.**

HB 186, relative to immunity from civil liability for sports officials. **Passed with Amendment.**

HB 194, permitting employers to pay wages to employees weekly or biweekly. **Passed.**

HB 204-FN, relative to bonds for public employees. **Laid on Table.**

HB 205-FN, relative to flying a drone above a correctional facility. **Laid on Table.**

HB 254, relative to membership on the assessing standards board. **Inexpedient to Legislate.**

HB 265, relative to accessory dwelling units. **Passed with Amendment.**

HB 294-FN-A, relative to the cost of fiscal analysis of legislation relating to the retirement system. **Passed.**

HB 302, relative to the leasing of Hampton Beach state park. **Inexpedient to Legislate.**

HB 303-LOCAL, relative to filling vacancies in the office of county commissioner. **Passed with Amendment.**

HB 309, relative to valid student identification cards for voting purposes. **Inexpedient to Legislate.**

HB 313, allowing a town to appropriate funds to create a town scholarship fund. **Inexpedient to Legislate.**

HB 316, relative to a statewide property tax exemption for commercial and industrial construction. **Passed.**

HB 320, relative to procedures for apportioning electoral districts. **Inexpedient to Legislate.**

HB 323, relative to powers and duties of the assessing standards board. **Passed with Amendment.**

HB 325, permitting certain towns to appoint a town clerk. **Inexpedient to Legislate.**

HB 336, relative to standards for outdoor wood-fired hydronic heaters. **Passed with Amendment.**

HB 337, relative to municipal regulations of small wind energy systems. **Passed.**

HB 341, repealing the provisions for tax exemption for certain chartered public school facilities. **Laid on Table.**

HB 342, establishing a commission to study the transition of certain regulatory authority to the department of environmental services from the Environmental Protection Agency. **Passed.**

HB 348-FN, relative to registering to vote. **Inexpedient to Legislate.**

HB 371-LOCAL, relative to bond requirements for public works contracts. **Passed with Amendment.**

(House Floor Action— Continued from Page 6)

HB 376, requiring construction projects that disturb sediments of estuarine waters to analyze the characteristics of the sediments and report them to the department of environmental services. **Inexpedient to Legislate.**

HB 391, relative to checklists in other districts. **Passed.**

HB 394, relative to public employees testifying before legislative committees. **Laid on Table.**

HB 402, relative to presumptive evidence of domicile for voters. **Inexpedient to Legislate.**

HB 411-LOCAL, relative to calculation of collection dates for local property taxes. **Inexpedient to Legislate.**

HB 417-FN, expanding the right-to-know law to certain motor vehicle records. **Passed with Amendment.**

HB 419-FN-LOCAL, relative to real estate leased for a public charter school. **Laid on Table.**

HB 424-FN, relative to documentation required for registration of certain title exempted vehicles and modifying the requirements for removal and sale of certain vehicles. **Passed.**

HB 430, relative to recording voters' out-of-state drivers' licenses. **Passed with Amendment.**

HB 431, establishing a commission to study long term goals and requirements for drinking water in the seacoast area. **Passed with Amendment.**

HB 432, relative to enforcement of parking prohibitions. **Passed.**

HB 433, relative to number plate decals for firefighters. **Passed.**

HB 437, relative to the authority of municipal law enforcement officers. **Passed.**

HB 441, relative to confidentiality in applying for public sector jobs. **Inexpedient to Legislate.**

HB 442, relative to criminal records checks in the employee application process. **Inexpedient to Legislate.**

HB 454, repealing mandatory on-board diagnostic and emissions tests for motor vehicles. **Inexpedient to Legislate.**

HB 460, relative to minutes under the right-to-know law. **Passed with Amendment.**

HB 462, relative to rules of the site evaluation committee. **Laid on Table.**

HB 464, relative to voter identification requirements when obtaining a ballot. **Inexpedient to Legislate.**

HB 474-FN, limiting the use of cell site simulator devices by law enforcement agencies. **Passed.**

HB 478, prohibiting discrimination based on gender identity. **Laid on Table.**

HB 481, relative to the use of small capacity, light weight plastic bags by retailers. **Inexpedient to Legislate.**

HB 483, prohibiting the issuance of a summons or warrant for failure to license a dog. **Inexpedient to Legislate.**

(House Floor Action — Continued from Page 7)

HB 491-LOCAL, relative to default budgets. **Inexpedient to Legislate.**

HB 495, relative to amendments to warrant articles. **Inexpedient to Legislate.**

HB 503-LOCAL, relative to notice to property owners regarding changes in assessments of property values for tax purposes. **Inexpedient to Legislate.**

HB 514, relative to alternate members of an elected planning board. **Passed.**

HB 524, relative to participation in meetings open to the public. **Passed with Amendment.**

HB 535, relative to community net metering. **Laid on Table.**

HB 539-FN-A-LOCAL, relative to the distribution of occupancy revenues under the meals and rooms tax to towns and cities. **Inexpedient to Legislate.**

HB 542-FN, relative to retired members employed in a part-time position by retirement system employers. **Inexpedient to Legislate.**

HB 543-FN, relative to part-time employment by a retiree for a retirement system employer. **Inexpedient to Legislate.**

HB 548-FN, increasing the age at which a pension begins for non-vested and newly-hired group I members of the retirement system. **Inexpedient to Legislate.**

HB 552-FN, relative to investigation of undeliverable voter verification letters. **Passed with Amendment.**

HB 561-FN, relative to contributions by employers of part-time employees receiving retirement system pensions and relative to enforcement of provisions concerning retired members working part-time after retirement. **Passed with Amendment.**

HB 564, relative to information available to members of school boards or budget committees. **Inexpedient to Legislate.**

HB 567-FN, repealing the exemption for water and air pollution control facilities from local property taxation. **Inexpedient to Legislate.**

HB 573-FN, relative to the exemption from property taxation for charitable nonprofit hospitals. **Inexpedient to Legislate.**

HB 577-FN, relative to number plate scanning devices. **Inexpedient to Legislate.**

HB 585-FN-LOCAL, abolishing fluoridation in water. **Laid on Table.**

HB 599-FN, establishing the office of ombudsman in the department of state. **Laid on Table.**

HB 614-FN, relative to forfeiture of personal property. **Passed.**

HB 617-FN, relative to jury trials for imposition of fines in zoning violations. **Passed with Amendment.**

HB 622-FN-LOCAL, allowing all voters to vote by absentee ballot. **Inexpedient to Legislate.**

HB 625-FN-LOCAL, establishing state holidays for elections. **Inexpedient to Legislate.**

(House Floor Action — Continued from Page 8)

HB 634-FN-A, repealing the penalty assessment on criminal offenses. **Inexpedient to Legislate.**

HB 638-FN-LOCAL, repealing the New Hampshire health protection program. **Inexpedient to Legislate.**

HB 642-FN, relative to eligibility to vote and relative to student identification cards. **Inexpedient to Legislate.**

HB 655-FN-A-LOCAL, establishing a local option sales tax to reduce property taxes. **Inexpedient to Legislate.**

SENATE FLOOR ACTION

Thursday, March 9, 2017

SB 22, relative to employer immunity for disclosure of certain worker employment information. **Inexpedient to Legislate.**

SB 30, defining woodland buffers and relative to such woodland buffers for the purposes of the shoreland protection act. **Passed with Amendment.**

SB 72, including certificates of deposit in the public deposit investment pool. **Passed.**

SB 108, relative to absentee ballot applications. **Passed.**

SB 113, relative to an electronic poll book trial program. **Passed with Amendment.**

SB 117-FN, making an appropriation for stormwater management and flood resilience grants. **Laid on Table.**

SB 170, relative to the authority of towns to issue bonds for the expansion of broadband infrastructure. **Re-referred.**



UPCOMING EVENTS FOR NHMA MEMBERS

March 31, 2017 9:00 a.m. – 1:00 p.m.	The Intersection of Land Use and Road Law: A New Hard Road to Travel Workshop
April 10, 2017 12:00 – 1:00 p.m.	Webinar- A Halftime Report: The Legislature at Crossover
April 12, 2017 12:00 – 1:00 p.m.	Webinar- Here Comes the Parade: Are Your Volunteers and Recreational Staff Ready?
2017 Local Officials Workshops - 8:30 a.m. – 4:00 p.m.	
April 13, 2017	Peterborough Recreation Center
April 19, 2017	Grantham Town Offices
May 4, 2017	Sugar Hill Meeting House
May 10, 2017	North Conway Water Precinct
May 23, 2017	Stratham Municipal Center
June 3, 2017	Concord NHMA Offices

Please register through our website: www.nhmunicipal.org by scrolling down on the left under Calendar of Events
For more information or questions, please call 1-800-852-3358, Ext. 3350.