

LEGISLATIVE BULLETIN

Bulletin #13

2013 Session

March 15, 2013

INSIDE THIS ISSUE:

Bonding for Broadband	2
Part-Time Employment of Retirees	2
State Budget Update	3
Policy Bills Advanced	3
Binding Arbitration	4
Cheshire County Equalization Session	4
Post-Town Meeting Webinar	5
House and Senate Calendars	5
Floor Action	6
Local Officials Workshops	10

**Government Affairs
Contact Information**

Judy A. Silva

Deputy Director for Legal, Advocacy,
and Communications Services

Cordell A. Johnston

Government Affairs Counsel

Barbara T. Reid

Government Finance Advisor

Timothy W. Fortier

Government Affairs Advocate



**New Hampshire
Municipal Association**

25 Triangle Park Drive
Concord, NH 03301

Tel: 603.224.7447/Fax: 603.415.3090
NH Toll Free: 800.852.3358

Email: governmentaffairs@nhlgc.org
Website: www.nhmunicipalassociation.org

Ways & Means Committee Gas Tax Vote on Tuesday

The House Ways and Means Committee heard hours of testimony on **HB 617** (the gas tax increase) on Thursday. The 4+ hour hearing in Representatives Hall at the State House included expressions of support and opposition from a variety of legislators, organizations, and individuals. **HB 617** is an **NHMA policy bill** that increases the road toll (commonly known as the gas tax) by four cents per gallon of gasoline in each of the next three years (fiscal years 2014 – 2016) and then three cents in fiscal year 2017, for a total 15-cent increase over the current road toll of 18 cents per gallon.

Projections show this bill would increase highway block grant funding for municipalities by **\$3.6 million in 2014** to over **\$13 million in 2017**, for a total ten-year increase of **\$117 million**. An estimate of the additional funding per year to each municipality is available [here](#). For more information see [Bulletin #10](#).

Two amendment proposals were discussed that would reduce the increases from four cents/four cents/four cents/three cents over the next four years, to simply four/four/four or four/three. Another proposed amendment would essentially eliminate the use of the highway fund for state troopers. (Part II, Art. 6-a, of the New Hampshire Constitution requires the highway fund to be used “exclusively for the construction, reconstruction and maintenance of public highways...including the supervision of traffic thereon.”) Yet another amendment discussed would retain in the highway fund all unrefunded road toll monies attributable to road toll increases over the current 18 cents.

Limiting the diversion of road tolls for non-highway uses is fine, and may result in more money for *state* highways; but unless there are additional revenues flowing to the highway fund, there will be no increase in municipal block grants. The current statutory formula for municipal aid is calculated on the total highway fund revenue before any other uses are funded. Thus, without an increase in the road toll, there can be no additional money for municipal block grants.

Gas Tax Vote - continued

The Ways & Means Committee will vote on **HB 617** on **Tuesday, March 19**. While the bill passed the House last week by a 207-163 vote, legislators on the [Ways and Means Committee](#) need to hear from municipal officials about how important this funding is to maintaining local roads and bridges. Please contact committee members and ask for their support of **HB 617**.

Vote on Broadband Bill Delayed to Next Week

Because the House cancelled a session due to weather, some of its deadlines have been extended, and bills that would have been on the calendar this week were delayed. Among those is **HB 286**, authorizing municipalities to issue bonds for the construction of broadband infrastructure, which will now go to the House floor next **Wednesday, March 20**. We reported on this bill in [last week's Bulletin](#). Again, please contact your representatives and ask them to ***support the committee's recommendation of Ought to Pass with Amendment***.

House to Vote on Part-Time Employment of Retirees

As reported in last week's *Bulletin*, **HB 364**, as amended by the House Executive Departments and Administration Committee, will require New Hampshire Retirement System (NHRS) employers to provide written notice of the maximum hours that an NHRS retiree may work (under current law generally 32 hours per week for one or more NHRS employers) and the potential effect that exceeding those hours may have on retirement benefits. Such written notice would be required *prior* to hiring for part-time employment of any NHRS retiree, and would also need to be provided *annually* to each existing part-time employee who is an NHRS retiree. The NHRS would also be required to notify every retiree annually in writing about the hourly limitation and the consequences of exceeding that limit.

Our concern is the potential liability that this new notification requirement establishes for employers, specifically in circumstances where the NHRS determines that a part-time employee should have been restored to active status and attempts to recoup the pension benefits that were inappropriately paid. Employees could easily claim they were not informed by their employer of the hourly limitation, thereby forcing employers to *prove* such written notice was in fact provided, in order to avoid any liability.

The bill came out of committee with a 12-7 recommendation of Ought to Pass With Amendment. However, we understand that there may be a floor amendment offered to relieve employers of the notification requirement, but leave in NHRS's notification obligation. As we said last week, since continued eligibility for retirement benefits is an issue between the NHRS and a retiree, an annual notice requirement from the NHRS seems both reasonable and sufficient, without creating a new liability for employers.

HB 364 is on the House agenda for next week. **Please contact your representatives and ask that they support the floor amendment on **HB 364**, which places the notification obligation solely on the NHRS and avoids creating a potential liability for employers!**

State Budget Update

The House Finance Committee, through division subcommittees, continued work this week analyzing and revising state agency budgets. Each of the three divisions must complete its work by early next week in order to make budget recommendations to the full Finance Committee on March 25. Agencies have been advised that the Finance Committee is looking to address approximately \$130 million in reductions from the Governor's proposed budget due to disagreement over revenue estimates. There is still much work to be done as all the pieces in **HB 1**, the operating budget, and **HB 2**, the so-called trailer bill that enacts the statutory changes necessary to implement the budget, come together over the next week.

Reminder: Next **Monday, March 18**, the House Finance Committee will hold the last two hearings to receive public input on the state budget. This is an opportunity to let House budget policymakers know how important maintaining state aid programs is to your community. These two hearings will be held as follows:

- ◇ **Claremont:** Sugar River Valley Regional Technical Center, 111 South Street, 5:00 to 8:00 p.m.
- ◇ **Rochester:** Rochester Community Center, 150 Wakefield Street, 5:00 to 8:00 p.m.

Policy Bills Advance

Depending on how you count them, NHMA has somewhere between seventeen and twenty policy bills in the legislature this year, by far the most we've had in recent years. It would be difficult, and would quickly become monotonous, to report on each bill's progress in each *Bulletin*, but we will provide updates on important developments as they occur.

The House passed four NHMA policy bills this week:

- **HB 183**, which repeals the requirement that moderators wait until 1:00 p.m. on election day to begin processing absentee ballots. As introduced, the bill would have allowed processing to begin as soon as the polls open. The House passed an amended version, which allows processing to begin two hours after the polls open.
- **HB 506**, which extends the maximum applicable periods when the selectmen in a town of over 10,000 are considering the adoption or amendment of an ordinance. Current law requires that the two public hearings be held not more than 14 days apart, and that the selectmen vote on the adoption or amendment not more than 14 days after the second hearing. The bill changes both periods to a maximum of 21 days.
- **HB 517**, which makes permanent the municipal transfer station exemption from the ban on combustion of construction and demolition debris. Without this change, the exemption would expire at the end of this year.

Policy Bills - continued

- **HB 522**, which allows the selectmen to sign a manifest outside a public meeting, so long as they do not do it contemporaneously.

All of these bills will move now to the Senate. None of them has been scheduled for a hearing yet, or even assigned to a committee; we will keep you informed.

House Rewrites Binding Arbitration Bill

HB 178, as introduced, would have required binding arbitration when an impasse occurs in collective bargaining between public employers and employees. Some local officials may have been alarmed, then, to see that the House passed the bill this week.

Fear not. The important qualification is that the bill was significantly amended before passage. The binding arbitration requirement is entirely gone, and the bill now merely (1) requires the Public Employee Labor Relations Board to develop training for parties engaging in collective bargaining, and post the training materials on its website; and (2) requires a public employer to report to the PELRB the result of any legislative body vote on a collective bargaining agreement within 14 days after the vote. Mandatory binding arbitration appears to be dead for another year.

Reminder: Equalization Presentation for Cheshire County Municipal Officials

NHMA and Cheshire County are offering an informational session for Cheshire County municipal and county officials and state legislators to help in understanding the equalization process and how it affects shared property taxes, particularly county taxes. This presentation by the Department of Revenue Administration is designed to provide easy-to-understand information about how local property taxes are calculated in light of lower property values and shrinking or level budgets.

Presentation: Understanding the Equalization Process and the Impact on County Taxes

Date: Tuesday, March 19, 2013

Time: 6:00 p.m. to 8:00 p.m.

Location: Training Room at Cheshire County Department of Corrections
825 Marlborough Street, Keene, NH

Who Should Attend:

Selectmen, city councilors, budget committee members, town and city managers/administrators, and finance staff from municipalities in Cheshire County; also Cheshire County commissioners and state representatives from Cheshire County.

Pre-registration is requested. Please click [here](#) to register online.

Questions? Please contact Erin Grubb at 603.230.3340 or egrubb@nhlgc.org.

Post-Town Meeting Webinar

Town meetings can have some unexpected or challenging results. Was a key budget item or article defeated? Was a person elected to two offices he or she cannot hold at the same time? Did an article pass that may not be legal? Were there procedural defects in the process before or during the meeting? Join NHMA staff attorneys Chris Fillmore and Paul Sanderson on **Wednesday, March 27, at 12:00 noon**, for a webinar that will focus on how to handle these situations and avoid some of the problems in the future.

Register Today: [here](#)

HOUSE CALENDAR

Joint House/Senate Meetings Are Listed Under This Section

MONDAY, MARCH 18

FINANCE, Sugar River Valley Regional Technical Center, 111 South Street Claremont.

5:00 p.m. Public hearing on **HB 1-A**, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2014 and June 30, 2015 and **HB 2-FN-A-LOCAL**, relative to state fees, funds, revenues, and expenditures.

Rochester Community Center, 150 Wakefield Street, Rochester.

5:00 p.m. Public hearing on **HB 1-A**, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2014 and June 30, 2015 and **HB 2-FN-A-LOCAL**, relative to state fees, funds, revenues, and expenditures.

FRIDAY, MARCH 22

ASSESSING STANDARDS BOARD (RSA 21-J:14-a), Room 301, LOB

9:30 a.m. Regular meeting.

SENATE CALENDAR

TUESDAY, MARCH 19

TRANSPORTATION, Room 103, LOB

2:00 p.m. **HB 543**, relative to ascertaining damages to abutting landowners.

WEDNESDAY, MARCH 20

ENERGY AND NATURAL RESOURCES, Room 103, SH

10:00 a.m. **SB 99**, relative to the process for applying for a certificate for an energy facility. Proposed non-germane amendment to SB 99 # 0900s.

10:30 a.m. **SB 195**, relative to wind-powered renewable energy facilities.

Senate Calendar - continued**PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB**

- 9:00 a.m. **HB 115**, relative to the procedure for filling a vacancy on a cooperative school district budget committee.
- 9:15 a.m. **HB 126-L**, relative to use of revolving funds by towns for maintaining recycling programs.
- 9:30 a.m. **HB 138**, permitting a town that has adopted official ballot voting to use a topical description of the substance of a warrant article for the adoption of ordinances on the official ballot.
- 10:00 a.m. **HB 198**, relative to town boundary perambulation.
- 10:20 a.m. **HB 134**, relative to contingency funds in towns.



FLOOR ACTION
Wednesday, March 13, 2013

HOUSE

HB 119, relative to voter registration. **Ought to Pass with Amendment.**

HB 127-FN-L, relative to the state minimum hourly rate. **Inexpedient to Legislate.**

HB 128, relative to recording public votes in public records. **Inexpedient to Legislate.**

HB 139, relative to the time towns that have adopted official ballot voting have to approve bonding in solid waste management districts. **Ought to Pass with Amendment.**

HB 178-FN-L, (New Title) relative to public employer collective bargaining agreements. **Ought to Pass with Amendment.**

HB 183, relative to processing absentee ballots. **Ought to Pass with Amendment. NHMA Policy.**

HB 241-FN, establishing a state minimum hourly rate. **Inexpedient to Legislate.**

HB 248, establishing a committee to study implementation of early processing of absentee ballots at state elections. **Inexpedient to Legislate.**

HB 265, relative to procedures by absentee voters. **Ought to Pass with Amendment.**

HB 278, relative to voluntary installation of fire suppression sprinklers. **Ought to Pass with Amendment.**

HB 342-FN, relative to part-time employment of retired members of the retirement system. **Ought to Pass with Amendment.**

Floor Action - continued

HB 352, relative to sending checklists to the state archives. **Ought to Pass with Amendment.**

HB 355, establishing a committee to study the feasibility of cities and towns transferring insurance under the Patient Protection and Affordable Care Act. **Inexpedient to Legislate.**

HB 367, relative to the municipal bond bank reserve process. **Ought to Pass.**

HB 379, prohibiting an employer from requiring an employee or prospective employee to disclose his or her social media passwords. **Inexpedient to Legislate.**

HB 393, relative to effluent limitations with regard to nitrogen and phosphorus. **Ought to Pass with Amendment.**

HB 412-FN, relative to absentee voter applicant information. **Inexpedient to Legislate.**

HB 414, relative to privacy in the workplace. **Ought to Pass with Amendment.**

HB 429, relative to service of writs against cities. **Ought to Pass.**

HB 442, prohibiting residency restrictions for registered sex offenders and offenders against children. **Ought to Pass.**

HB 448, making changes to state representative districts. **Inexpedient to Legislate.**

HB 460-L, relative to amending the default budget in towns that use official ballot voting. **Inexpedient to Legislate.**

HB 498, permitting the use of firearms by military or veterans groups in the compact part of a town for military or veterans events, or national holidays. **Recommended.**

HB 501-FN, relative to the minimum wage. **Ought to Pass with Amendment.**

HB 504, relative to official oppression. **Inexpedient to Legislate.**

HB 506, relative to certain time periods for adoption and amendment of town codes and ordinances. **Ought to Pass. NHMA Policy.**

HB 513, relative to the shoreland protection act. **Ought to Pass with Amendment.**

HB 516, establishing a committee to study the overlap of federal, state, and local regulation relative to environmental issues. **Ought to Pass.**

Floor Action - continued

HB 517, relative to the incidental combustion of untreated wood at certain municipal transfer stations. **Ought to Pass. NHMA Policy.**

HB 522, relative to duties of town treasurers. **Ought to Pass. NHMA Policy.**

HB 531, allowing towns and cities to exempt farm buildings and structures from property taxation. **Inexpedient to Legislate.**

HB 541, relative to city charters. **Inexpedient to Legislate.**

HB 567, relative to identification of publicly owned vehicles. **Inexpedient to Legislate.**

HB 581-FN-L, relative to recovering moneys from a neighboring state for mitigation of flooding. **Ought to Pass with Amendment.**

HB 589, relative to a selectman serving on the school board. **Inexpedient to Legislate.**

HB 593, establishing a committee to study extending the due date for final property tax bills. **Inexpedient to Legislate.**

HB 610-FN, relative to attorney's fees and costs in an action against a governmental unit for false arrest. **Inexpedient to Legislate.**

HB 619-FN, prohibiting images of a person's residence to be taken from the air. **Laid on Table.**

HB 620-FN-L, relative to the adjustment of member and employer contribution rates in the retirement system. **Inexpedient to Legislate.**

HB 623-FN-A, appropriating funds to the department of environmental services for the purpose of funding eligible and completed drinking water, wastewater, and landfill closure projects under the state aid grant program. **Inexpedient to Legislate. NHMA Policy.**

HB 634, relative to water resource management and protection plans in municipal master plans. **Ought to Pass with Amendment.**

HB 655-FN, relative to the collection of the amount of the property tax deferral for the elderly or disabled upon sale of the property. **Ought to Pass with Amendment.**

HB 662-FN, requiring the department of revenue administration to collect and make available data on the amount of meals and rooms tax revenue generated in each municipality. **Inexpedient to Legislate.**

Floor Action - continued

HB 673-FN, requiring prosecution of a law enforcement officer for failure to enforce the crime of interference with custody. **Inexpedient to Legislate.**

SB 57, relative to approval of the project proposed by the Town of Alstead for the lower Warren Brook Restoration project, establishing a commission to determine the appropriate use of flood damaged property, and repealing a commission established in 2006 to determine the appropriate use of property damaged in the October 2005 floods. **Ought to Pass.**

SENATE**Thursday, March 14, 2013**

SB 121-FN-L, relative to the distribution formula for meals and rooms tax revenue. **Inexpedient to Legislate.**

SB 123-FN-L, relative to the use of proceeds from the regional greenhouse gas initiative program. **Ought to Pass with Amendment. Referred to Finance.**

SB 124-FN, establishing an integrated land development permit. **Ought to Pass with Amendment.**

SB 128-FN-L, relative to fees for vital records. **Ought to Pass.**

SB 132-FN, relative to part-time employment in the retirement system and establishing a committee to study police special details. **Ought to Pass with Amendment.**

SB 146-FN-L, relative to aid to the permanently and totally disabled and old age assistance. **Ought to Pass with Amendment.**

SB 188-FN, relative to municipally-owned utilities. **Ought to Pass.**

SB 192-FN-L, establishing a state infrastructure bank. **Ought to Pass with Amendment.**



2013 LOCAL OFFICIALS WORKSHOPS

Presented by New Hampshire Municipal Association's Legal Services attorneys, the 2013 Local Officials Workshops provide elected and appointed municipal officials with tools and information to effectively serve their communities.

APRIL 3 – MAY 11
9:15 a.m. – 3:15 p.m.

A workshop for NHMA Members.
No registration fee • Pre-registration required

Attendees will receive a copy of NHMA's 2013 edition *Knowing the Territory*.
Continental breakfast and lunch will be provided.

Basic Workshops

An overview of the Right to Know Law, town governance, public employment, liability and more will be provided. Interactive discussions will offer an opportunity to test scenarios, discuss concerns, ask questions and share ideas.

Wednesday, April 3
Keene Recreation Center

Wednesday, April 10
Moultonborough Public Safety Building

Tuesday, April 23
Gorham Town Hall

Friday, May 3
McConnell Center, Dover

Questions? Call 800.852.3358, ext. 3350
or email registrations@nhlgc.org.

In-Depth Workshops

These workshops offer more in-depth coverage of the specific topics listed under each date.

Part I, Saturday, May 4
Local Government Center, Concord
Topics will include the Right to Know Law, town governance, and budget law.

Part II, Saturday, May 11
Local Government Center, Concord
Topics will include liability, public employment, conflicts of interest, and streets and highways.

For more information or to
register online, please visit
www.nhmunICIPalassociation.org
and click on Training & Events.

Online pre-registration required one week prior
to event date. Space is limited!