

LEGISLATIVE BULLETIN

Blizzard Blues

Bulletin 12 - 2017 Session
March 17, 2017

This town meeting week has been a difficult one for local officials. We hope there will never be another blizzard on town meeting day and we hope this year’s confusion about postponing will not be repeated. Keeping in mind that this should not be a political or partisan issue, and town elections are non-partisan, NHMA will do its best to resolve any remaining confusion and ensure that it does not happen again. Let us review.

It actually began late last week, when the long-term weather forecast suggested a major snowstorm for town meeting day. Several town moderators and other officials called the NHMA office to ask about postponing their meetings. The law could not be much clearer. RSA 40:4, II, states, in part:

In the event a weather emergency occurs on or before the date of a deliberative session or voting day of a meeting in a town, which the moderator reasonably believes may cause the roads to be hazardous or unsafe, *the moderator may*, up to 2 hours prior to the scheduled session, *postpone and reschedule the deliberative session or voting day of the meeting* to another reasonable date, place, and time certain.

NHMA attorneys advised the towns that the moderator had the authority to postpone the voting session, the business meeting, or both. A number of towns consulted their town attorneys and received the same answer.

We also heard from several town officials who had contacted the Secretary of State’s office for guidance, although the Secretary of State has no jurisdiction over town meetings. Those callers were told that RSA 40:4 authorizes the moderator to postpone, but that it was a town meeting issue and not one for the Secretary of State’s office, so they should consult their town attorney to confirm—the same answer NHMA and town counsel had been consistently giving municipal officials.

And that was that—all that remained was to see whether the storm actually arrived, and how many moderators would exercise their authority to postpone. There was no confusion, just a little weather anxiety.

That all changed on Monday morning, when a front-page *Union Leader* headline blared, “We don’t have snow days ... for elections,” quoting the

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(Blues — Continued from Page 1)

Secretary of State and indicating that a town *meeting* can be postponed, but a town *election* cannot. The NHMA switchboard soon lit up, as did the municipal managers' listserv, the moderators' listserv, and the municipal lawyers' listserv.

A number of town managers and moderators expressed frustration (to put it mildly) that they had heard one thing over the phone from the Secretary of State's office, and were now hearing the exact opposite via the news media. On the municipal lawyers' listserv, there was 100 percent agreement that RSA 40:4 authorizes the moderator to postpone. On that listserv and in telephone conversations, we heard from at least a dozen municipal attorneys, who together represent at least 150 towns, all in agreement. NHMA and other municipal attorneys therefore continued to advise towns that the moderator had clear authority to reschedule.

According to news reports, state officials, including the Governor, Secretary of State, and Attorney General, spent much of Monday morning debating the issue. A Monday noontime Homeland Security conference call about the storm was supposed to address voting postponement, but that issue was put off to a separate conference call at 2:00 pm.

At 2:00 p.m. on Monday, the Governor held the second conference call with many local officials and others, in which he "strongly recommend[ed]" that all towns hold their elections on Tuesday as planned, although he acknowledged that the state could not mandate that, because there are "ambiguities" in the law. Unfortunately, he also singled out NHMA for criticism, accusing it of sowing confusion by issuing an "unadvised opinion" about moderators' authority to postpone. NHMA had not been a party to any of the conversations that day.

Ultimately, dozens of towns stuck to their decisions to postpone their elections/meetings, and many others held them on Tuesday as scheduled. It ultimately matters not whether the voting was held or postponed, but rather that the municipalities that held their voting sessions on Tuesday did so because they just saw no need to postpone, and not because they believed they had no choice.

Clearly, however, there was much disarray and confusion by Monday afternoon, with many voters still hearing that towns could not postpone their elections, even as many towns were doing exactly that. Confusion of that magnitude on such an important local issue in the midst of a major snow-storm was clearly a disservice to municipalities and citizens. As a reminder, NHMA is non-partisan, and will continue to work in a non-partisan way to keep local elections under local control.

So, now what? Please read on.

Bill to Ratify Town Meeting Actions

Because the authority of moderators to postpone town elections was called into question, there is now a concern that actions taken at postponed elections will be subject to challenge. To address that concern, a late Senate bill, [SB 248](#), has been introduced to ratify "all actions, votes, and proceedings, including but not limited to the receipt and issuance of absentee ballots and the time for official recounts, held at any town election, town meeting, school district election, or school district meeting, that were originally scheduled to take place on March 14, 2017, postponed due to a weather emergency, and held at a later date."

(Town Meeting Bill — Continued from Page 2)

The bill is scheduled for a hearing next **Tuesday, March 21, at 11:40 a.m., in LOB 102**, before the Senate Election Law and Internal Affairs Committee. This is obviously a very important bill, and we encourage all moderators, other town officials, and town attorneys with an interest in the issue to attend the hearing or contact members of [the committee](#) with your thoughts.

Senate Hearing on Municipal Transportation Improvement Fee

On **Wednesday, March 22, at 9:00 a.m. in LOB Room 102**, the Senate Public and Municipal Affairs Committee will hear testimony on [HB 121](#), an **NHMA policy bill** that would increase from \$5 to \$10 the maximum fee that a municipality may collect under RSA 261:153, VI. This statute allows a municipality, by vote of the legislative body, to establish a transportation improvement fund to help pay for local or regional transportation systems, including roads, bridges, bicycle and pedestrian facilities, parking and intermodal facilities, and public transportation. Money for the fund comes from an additional motor vehicle registration fee, established by the legislative body, not to exceed \$5 per vehicle.

As we explained in previous *Bulletins*, these are *local* dollars used for *local* projects approved by the *local* legislative body of each municipality that assesses this fee. Even assessment of the fee itself must first be approved by the local legislative body, as would any increase in the fee proposed in this bill—a text-book example of local control! And with state and municipal budgets struggling to keep up with the maintenance and improvement costs of our aging infrastructure, **HB 121** provides an opportunity to supplement financing of diverse modes of transportation.

Officials from municipalities that assess this local option fee, or others who are interested, are urged to contact members of the [Senate Public and Municipal Affairs Committee](#); you are also encouraged to attend the hearing to explain the transportation improvements and services being funded by this fee, and why a modest increase in the maximum amount of the fee is so important!

State Budget Update

On Monday, the House Finance Committee held the last of its three public hearings on [HB 1](#) and [HB 2](#), the state budget bills for the upcoming biennium beginning July 1, 2017 as proposed by the Governor. Click [here](#) to view the written testimony submitted to the committee by NHMA.

Last week the House affirmed revenue estimates for fiscal years 2017, 2018, and 2019, based on current law and current economic conditions, with the understanding that these estimates will be updated in the coming months as more accurate information on tax receipts is received, particularly business tax filings in April, May and June. These current revenue estimates (which some legislators indicate are very conservative and hope will increase over the next few month) set the target for the House budget appropriations. It is our understanding that to stay within these affirmed revenue estimates, the House Finance Committee needs to cut approximately \$60 million from the general fund budget as proposed by the Governor. Additionally, the Highway Fund, which receives revenue from the road toll (a.k.a. gas tax) and state motor vehicle registration fees and fines, and from which municipal highway block grants and bridge aid are funded, is projected to have a \$20 million deficit by the end of fiscal year 2019, compared to the Governor's projection of a \$6 million surplus at that time.

(State Budget — Continued from Page 3)

The three divisions (subcommittees) of the House Finance Committee continue meeting as March, 30 (the last day for the full committee to report the budget bill) is fast approaching. We expect a lot of budget activity over the next two weeks as each division finalizes its recommendations for **HB 1** and **HB 2** changes.

Retirement Contribution Bill Retained

As we expected, on Monday [HB 413](#), the bill to restore a portion of the state retirement contribution for teachers, police and firefighters, which passed the House on a 267-83 vote last month, received a unanimous vote by the House Finance Committee to be retained. As we reported in [Bulletin #10](#), the plan is to retain the bill while awaiting revenue projections to determine whether funds are available for this purpose.

Semi-Trailer Registration Fees

On Wednesday, the House Ways and Means Committee voted 13-0 to retain [HB 579](#), which would have authorized non-governmental agents to register semi-trailers from out-of-state residents for multiple years at a significant discount from what in-state residents pay. During the executive session on the bill, yet another amendment was offered attempting to convince committee members that the bill would generate millions of dollars in state revenue with no decrease in municipal registration revenue. Fortunately, the committee heeded the concerns raised by the NH Division of Motor Vehicles, the NH City and Town Clerks Association and NHMA. We had hoped for an ITL recommendation. However, “retained” means that the bill will be held this year and reviewed again by the Ways and Means Committee, with a recommendation made to the 2018 legislature.

Federal Budget Proposal to Cut Support to Municipalities

NHMA’s federal counterpart, the National League of Cities (NLC), has provided preliminary information about the federal budget released this week by President Trump. NHMA members have long supported and benefited from Community Development Block Grants (CDBG), which are used for a host of municipal projects including housing for elderly and poor and community revitalization. According to NLC, the [budget proposal cuts](#):

- \$3 billion in community development funding
- \$498 million in water and waste water funding
- \$90 millions in brownfields aid
- \$200 million for weatherization
- \$500 million for elderly housing assistance
- Meals on Wheels funding
- Low Income Heating Assistance Program (LIHEAP—fuel assistance) funding

Check out the [NLC web site](#) for more information. If you’d like to send a message to Washington to save the CDBG grants, click on this link: [CDBG](#).

HOUSE CALENDAR

WEDNESDAY, MARCH 22, 2017

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB
10:00 a.m. **SB 50**, relative to members of the site evaluation committee.

FRIDAY, MARCH 24, 2017

ASSESSING STANDARDS BOARD (RSA 21-J:14-a), Room 303, LOB
9:30 a.m. Regular meeting.

SENATE CALENDAR

TUESDAY, MARCH 21, 2017

ELECTION LAW AND INTERNAL AFFAIRS, Room 102, LOB
11:40 a.m. **SB 248**, ratifying elections and meetings postponed due to a weather emergency on March 14, 2017.

TRANSPORTATION, Room 103, LOB
1:20 p.m. **HB 371-L**, relative to bond requirements for public works contracts. **NHMA Policy.**
1:40 p.m. **HB 417-FN**, relative to certain motor vehicle records.

WEDNESDAY, MARCH 22, 2017

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB
9:00 a.m. **HB 121**, relative to the maximum optional fee for transportation improvements charged by municipalities when collecting motor vehicle registration fees. **NHMA Policy.**
9:15 a.m. **HB 131**, relative to the costs for notice of changes in a zoning district.
9:45 a.m. **HB 251**, relative to the use of capital reserve fund appropriations by municipalities.
10:00 a.m. **HB 265**, relative to accessory dwelling units.

WAYS AND MEANS, Room 100, SH
9:30 a.m. **HB 316**, relative to a statewide property tax exemption for commercial and industrial construction.

There is no House Floor Action this week.

SENATE FLOOR ACTION

Thursday, March 16, 2017

SB 7-FN-L, relative to eligibility for food stamps. **Passed with Amendment. Referred to Finance.**

SB 55, relative to backflow devices for water. **Re-referred to Committee.**

SB 67, relative to the authority of state police employees. **Passed with Amendment.**

SB 83-FN-L, relative to the state minimum wage. **Inexpedient to Legislate.**

(Senate Floor Action — Continued from Page 5)

SB 140, relative to the independent investment committee in the New Hampshire retirement system. **Passed with Amendment.**

SB 195-FN-L, relative to fees for operation of a heating and agitation device in public waters. **Referred to Committee.**

SB 197-FN-A, making an appropriation to the department of justice to enforce election and lobbying laws. **Passed with Amendment.**

SB 208-FN, establishing a working families property tax refund program. **Inexpedient to Legislate.**

SB 236-FN, making the Medicaid expansion law permanent. **Tabled.**

SB 240-FN-L, allowing owners of certain contaminated wells access to municipal water systems. **Passed with Amendment.**

SB 243-FN-A, relative to complete streets policies, establishing a complete streets pilot program, and making an appropriation therefor. **Inexpedient to Legislate.**

SB 247-FN-A, preventing childhood lead poisoning from paint and water and making an appropriation to a special fund. **Passed with Amendment. Referred to Finance.**

HB 87, relative to vacancies in the office of moderator. **Passed.**

HB 123, relative to continuation of a public hearing of the zoning board of adjustment. **Passed.**

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|  | UPCOMING EVENTS FOR NHMA MEMBERS | |
| | FULL | 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. | | |