

LEGISLATIVE BULLETIN

Governor Signs Town Meeting Ratification Bill

Bulletin 18 - 2017 Session
April 28, 2017

The Governor last Friday signed [HB 329](#), the bill addressing ratification of voting results from town meeting voting sessions that were postponed due to severe weather on March 14. The bill is effective immediately (April 21). We thank the Governor for giving his prompt attention to this bill.

Under the bill, all elections of any person to any elected position in a town, school district, or village district are ratified. No further action is required by the political subdivision to ratify those elections, so the election results are automatically protected against any legal challenge.

In addition, the governing body may ratify all other “actions, votes, and proceedings” held at any session that was scheduled to take place on March 14 and was postponed due to weather. If the governing body elects to follow this process, it must first hold “a properly noticed public hearing.”

Under the terms of the bill, notice of the public hearing must be published at least 72 hours in advance of the hearing “in a newspaper of general circulation in the town or district” and posted at least 72 hours in advance on the public body’s Internet website, if one exists. We emphasize that the newspaper publication and the website posting are both required. Other than those notice requirements, the bill does not prescribe any rules for the conduct of the hearing—but it must be a public hearing, so the governing body must allow members of the public to speak before making any decision.

After the public hearing, the governing body may take a vote to “legalize, ratify, and confirm” the actions taken at the postponed session. The governing body’s decision must be in writing and must be “posted in the same manner as the results of the [postponed] election [or meeting].” DRA has requested that towns submit a copy of the minutes of the meeting where the vote was taken and a copy of the decision posted by the governing body.

The bill does not require any town or district to take a ratification vote. However, if your town or district approved a bond at a postponed voting session, or took other action that might conceivably be subject to challenge

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(such as amending a zoning ordinance or approving a collective bargaining agreement), your governing body should seriously consider a ratification. We strongly urge all towns to consult with their local legal counsel, or with NHMA, if they have any questions about whether or how to hold a ratification vote.

Amendment Addresses Release of Accident Reports

On Tuesday the Senate Judiciary Committee will hear testimony on an [amendment](#) to **HB 437** clarifying the authority of local police departments to release motor vehicle accident reports. (The underlying bill authorizes a police officer, when asked for assistance by an officer in another jurisdiction, to hold an arrested person needing medical assistance in temporary custody in the latter jurisdiction.)

Some background: RSA 260:14 requires the Department of Safety to keep “proper motor vehicle records” and, subject to numerous exceptions, provides that such records “shall not be public records or open to the inspection of any person.” This includes accident reports. While local police departments may obtain accident reports from the Department, the law does not allow them to release the information to anyone outside law enforcement.

Sometime around 2000, the then-Commissioner of Safety issued a memorandum of understanding allowing police departments to provide accident reports in limited circumstances, such as to a person who was involved in the accident. Local police departments have relied upon that memorandum since that time.

Late last year, however, the Attorney General’s office concluded that the memorandum of understanding is not supported by the law, and that office and the Department have since instructed police departments that they may not provide accident reports to involved parties or to parties whose property has been damaged in accidents. Except for the very narrow circumstances outlined in the statute, anyone seeking an accident report must request it from the Division of Motor Vehicles. That presents a serious problem for individuals, who now have to deal with the state rather than their local police department; for police departments, which are prevented from helping their citizens; and for DMV, which now has many more requests to handle.

The amendment to **HB 437** addresses that by allowing police departments to release accident reports to operators, passengers, injured persons, and owners of property damaged in an accident; to provide information needed to identify drivers, vehicles, and owners of vehicles involved in an accident to emergency personnel; and to provide the name, age, and town of residence of persons involved in accidents under the Right-to-Know Law. In essence, it merely amends the law to conform to the practice that police departments have followed, with the state’s blessing and without any problems, for many years.

The hearing on the amendment is scheduled for **Tuesday, May 2, at 9:30 a.m., in State House Room 100**. Please ask your senator to ***support the amendment to HB 437***.

Finance Committee Reviews SAG Funding

On Tuesday, Division I of the House Finance Committee held a work session on [SB 57](#), an **NHMA policy bill** seeking to appropriate state aid grant (SAG) money for 19 water and wastewater projects that were eligible for grants prior to the July 1, 2013, effective date of the current moratorium. The bill, as passed by the Senate, would fund these projects in the current state fiscal year, which ends June 30, 2017, using anticipated year-end surplus, but would schedule payments to municipalities in fiscal years 2018 and 2019. The House Finance Committee supports these 19 projects as well, but would prefer that the money come from the Drinking Water and Groundwater Trust Fund rather than fiscal year 2017 general fund surplus.

Officials from the New Hampshire Department of Environmental Services (NHDES) provided an [update of current estimates of all SAG projects, sorted by date of substantial project completion](#). This list includes SAG projects with warrant articles prior to December 31, 2008 (section A); SAG projects with warrant articles after December 31, 2008, with completion prior to July 1, 2013 (section B); and SAG projects with warrant articles after December 31, 2008, and with completion after July 1, 2013 (section C). The third page of this handout shows the estimated payments of future SAG payments by year. Due to concerns raised by Division I members, NHDES officials were instructed to provide a more complete and updated list for the Division's review for another work session scheduled for **Tuesday, May 9**.

Senate Public Hearing on Budget

On **Tuesday, May 2**, the Senate Finance Committee will hold a public hearing on the state budget and trailer bill in **Representatives' Hall from 1:00 pm to 5:00 pm, and again from 6:00 pm to 8:00 pm**. As we have noted, the next two-year state budget is in an odd posture given the inability of the House to agree on a House version of the traditional HB 1 and HB 2 budget and trailer bills. Because there is no House position on the budget, the Senate is proposing to add the Governor's HB 1 budget proposal as an [amendment](#) to HB 144, and the Governor's HB 2 trailer bill proposal as an [amendment](#) to HB 517. Both of these bills have passed the House and will simply provide a vehicle for the Senate's budget action.

This public hearing is an opportunity to let the Senate budget writers know what your municipal priorities are, so please consider attending the hearing or submitting written testimony. If you really want to see what happens at a Senate budget hearing but you can't make it in person, these hearings will be streamed live via the Internet at the following web address: <http://sg001-harmony.sliq.net/00288/Harmony/en/PowerBrowser/PowerBrowserV2/20170502/-1/13197>.

Treatment Costs Must Be Considered

On **Tuesday, May 2**, at **9:15 am in State House Room 103**, the Senate Energy and Natural Resources Committee will hold a hearing on an [amendment](#) to **HB 463**, which concerns the establishment of a maximum contaminant limit (MCL) for PFOS and PFOA for public water systems. The amendment requires the Department of Environmental Services (DES), in consultation with the Department of Health and Human Services (DHHA) to initiate rulemaking within 60 days and to "adopt the lowest MCL reasonably supported by science."

This is clearly a sensitive issue given recent examples of water contamination and resulting health concerns, but it is also a complex issue. Our exposure to these types of contaminants occur throughout our daily lives—from carpets, nonstick pans, clothing and furniture treatments, food packaging, cleaning supplies, and more. Removing or reducing these substances in drinking water will not reduce public exposure, and the costs of treating public water supplies to achieve very low levels is extremely high, as can be seen in the fiscal note to other legislation on this same subject, [HB 485](#), which was retained in the House Finance Committee.

Earlier proposals called for setting a standard in statute and we appreciate that the sponsors of the amendment to be heard Tuesday have not taken that approach. It should be noted, however, that DES has already set a standard for these elements. Further review should continue to include consideration of the full range of factors involved in setting MCLs, including the feasibility of treatment and costs.

Legislative Potpourri

Activity on non-budget bills is gradually winding down, although it's fair to assume that there will be some last-minute surprises and excitement. Over the next few weeks we will provide brief updates on miscellaneous bills of interest to municipalities, with no particular unifying theme. Here are a few:

Notice of energy facility siting. Last week the House passed [SB 116](#), an **NHMA policy bill** requiring notice to municipalities of any application to the Site Evaluation Committee for a certificate to construct an energy facility (wind towers, pipeline, high-voltage transmission lines, *etc.*). The bill requires the applicant to notify any municipality in which the facility would be located or from which it would be visible or audible, at least 14 days before a public information session about the proposed facility. The bill also allows an opportunity for the governing bodies and residents of the affected municipalities to provide comments at a public hearing. The House amended the bill, so it will need to go back to the Senate; but the amendment was a very minor language correction, so we are optimistic that the Senate will concur and not request a committee of conference.

Taxation of lease interests. Both the House and the Senate have passed [HB 568](#), dealing with the taxation of lease interests in publicly owned property. Under current law, when the state or a political subdivision leases land to another party, the lessee is liable for the payment of taxes on the property, and the lease is required to include a provision reciting that obligation. **HB 568** clarifies that the failure of the lease to include the precise language of the statute does not affect the lessee's obligation to pay the taxes. It also allows a municipality to exempt land used exclusively for agricultural purposes from the taxation requirement. Although the Senate passed the bill, it referred it to a second committee, Finance, which has not yet scheduled a hearing.

Municipal transportation fee. As we reported [last week](#), the Senate Public and Municipal Affairs Committee recommended re-referral of [HB 121](#), the **NHMA policy bill** that would increase from \$5 to \$10 the maximum fee that a municipality may vote to charge vehicle owners, in addition to annual motor vehicle permit fees, to fund a variety of transportation projects. The Senate yesterday approved that recommendation, so the bill will stay in the committee for further study and will be reported out of the committee for action in January.

Lawn watering restrictions. The Senate yesterday voted to re-refer [HB 173](#), which would expand a municipality’s authority to restrict outdoor lawn watering during a declared state of drought. Existing law limits the authority to residential lawn watering; the bill as passed by the House would allow a municipality to restrict commercial lawn watering as well. The Senate Public and Municipal Affairs Committee had voted to recommend passing the bill with an amendment to exclude “turf at golf courses” from the definition of a lawn, but issues arose after the committee vote, and it was decided to re-refer the bill instead.

Revolving funds for public safety. The Senate passed [HB 89](#) yesterday, expanding the purposes for which a town may create a revolving fund under RSA 31:95-h. Current law allows establishment of such a fund for, among other purposes, “providing public safety services by municipal employees or volunteers outside of the ordinary detail of such persons.” The bill expands the permissible purposes to include “any other public safety purposes deemed appropriate by the municipality.” The Senate amended the bill slightly, so it will need to go back to the House for concurrence or a committee of conference.

Keep on perambulating. To no one’s surprise, the House last week killed [SB 171](#), which would have repealed the requirement that selectmen perambulate their town boundaries every seven years. Thus, for at least another year, New Hampshire will remain one of the two states in the nation that cling to this 17th-century relic.

Rescheduling elections. [SB 248](#), establishing a committee to study the rescheduling of elections, has yet to be scheduled for a hearing in the House. As you will recall, the bill began its life as a bill to ratify actions at this year’s town meetings after state officials questioned the actions of moderators in postponing those meetings during the severe snowstorm on March 14. The Senate amended the bill to merely establish a study committee. Focus then shifted to [HB 329](#) (see article above), but [SB 248](#) is still out there. Expect it to be scheduled for a hearing in the House Election Law Committee sometime in the next couple of weeks.

HOUSE CALENDAR

No hearings related to municipal legislation for the week of May 1, 2017

SENATE CALENDAR

TUESDAY, MAY 2, 2017

ENERGY AND NATURAL RESOURCES, Room 103, SH

9:15 a.m. Hearing on proposed amendment [2017-1572s](#) to [HB 463-FN](#), regulating ground-water pollution caused by polluting emissions in the air and relative to standards for emerging contaminants in drinking water.

TUESDAY, MAY 2, 2017—Continued

FINANCE, Representatives' Hall, SH

1:00 p.m. to 5:00 p.m.

HB 144 Public hearing on proposed Amendment #2017-1344s, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2018 and June 30, 2019 to HB 144. (HB 1-A as introduced, presented by the Governor)

HB 517 Public hearing on proposed Amendment #2017-1345s, relative to state fees, funds, revenues and expenditures to HB 517. (HB 2-FN-A-L as introduced, presented by the Governor)

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

HB 144 Public hearing on proposed Amendment #2017-1344s, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2018 and June 30, 2019 to HB 144. (HB 1-A as introduced, presented by the Governor)

HB 517 Public hearing on proposed Amendment #2017-1345s, relative to state fees, funds, revenues and expenditures to HB 517. (HB 2-FN-A-L as introduced, presented by the Governor)

Please note: These hearings will be streamed live via the Internet at the following web address:

<http://sg001-harmony.sliq.net/00288/Harmony/en/PowerBrowser/PowerBrowserV2/20170502/-1/13197>

JUDICIARY, Room 100, SH

9:30 a.m.

Hearing on proposed amendment **2017-1430s** to **HB 437**, relative to the authority of municipal law enforcement officers and relative to information contained in certain motor vehicle records.

HOUSE FLOOR ACTION

There was no floor action in the House the week of April 24, 2017.

SENATE FLOOR ACTION

Thursday, April 27, 2017

HB 89, relative to municipal revolving funds. **Passed with Amendment.**

HB 117, relative to the property tax exemption for improvements to assist persons with disabilities. **Inexpedient to Legislate.**

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

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

HB 173, relative to regulations restricting the use of water for outdoor usage. **Re-referred.**

HB 247, relative to retention of voter registration forms. **Passed with Amendment.**

(Senate Floor Action— Continued from Page 6)

HB 238, establishing a committee to study broadband access to the Internet. **Passed with Amendment.**

HB 301, relative to the regulation of electric grills. **Passed with Amendment.**

HB 405, relative to the duties of the decennial retirement commission. **Passed with Amendment.**

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

	UPCOMING EVENTS FOR NHMA MEMBERS	
	2017 Local Officials Workshops: 9:00 a.m. – 4:00 p.m. (check-in and continental breakfast begin at 8:30 a.m.)	
	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
	May 11, 2017 9:00 a.m. – 4:00 p.m.	2017 Employment Law Workshop: Hot Trends and Developments
	May 24, 2017 12:00 – 1:00 p.m.	Webinar – References to Records Check: Best Practices for Background Investigations
	June 8, 2017 9:00 a.m. – 4:00 p.m.	Right-to-Know Law Workshop Concord, NH – NHMA Offices
October 27, 2017 9:00 a.m. – 1:00 p.m.	The Intersection of Land Use and Road Law: A New Hard Road to Travel Workshop	
<p>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.</p>		