

LEGISLATIVE BULLETIN

Bulletin #12

2013 Session

March 8, 2013

INSIDE THIS ISSUE:

<i>Gas Tax</i>	2
<i>Bonding for Broadband</i>	2
<i>Employing Retirees</i>	3
<i>State Aid Grants</i>	4
<i>Elected Conservation Commissions</i>	5
<i>Default Budgets for Enterprise Funds</i>	5
<i>Pollution Control Exemption</i>	5
<i>Credit Card Bill</i>	5
<i>Cheshire County Informational Session</i>	6
<i>Post Town Meeting Webinar</i>	6
<i>Calendars</i>	6
<i>Floor Action</i>	8

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

Deadlines Loom

Some important deadlines are approaching in the House and Senate, and both bodies have full agendas for the next few weeks. In the House, March 14 is the deadline to act on all bills that have not gone to a second committee; March 21 is the deadline for second committees to report all bills, except budget bills; and March 28 is the deadline to act on second-committee bills, except budget bills. Senate deadlines always seem to be a little more fluid, but March 28 is the last day for the Senate to act on all Senate bills.

The House will be in session the next two Wednesdays, and members have been asked to hold Thursdays open as well. The Senate will be in session next Thursday and presumably the following as well. For those looking for a break, the good news is that there will be very little activity in either chamber on Tuesday, March 12, because that is . . . well, we assume you know what day it is. (City folks needn't worry about it.)

Finance Committee Needs To Hear From Municipal Officials

As we mentioned in last week's *Bulletin*, the House Finance Committee has scheduled a series of public hearings around the state to receive input on the biennial state operating budget. Committee members need to hear from local officials about the importance of maintaining state aid programs to municipalities — specifically, the meals and rooms tax distribution, the state aid grants for water and wastewater infrastructure and landfill closures, and highway block grant funding.

Please plan to attend one of the remaining public hearings in your area. Committee members will very much appreciate your input, especially if your testimony is brief and does not repeat points that have already been made.

Monday, March 11:

Whitefield: White Mountains Regional High School, 127 Regional Road, 5:00 to 8:00 p.m.

Nashua: New Hampshire Community Technical College, 505 Amherst Street, 5:00 to 8:00 p.m.

Municipal Officials - continued

Monday, March 18:

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.

House Passes Gas Tax Increase

After lengthy debate on Wednesday, the House voted 207-163 in favor of **HB 617, an NHMA policy bill** that increases the road toll by 4 cents per gallon of gasoline in each of the next three years (fiscal years 2014 – 2016) and then 3 cents in fiscal year 2017, for a total 15-cent increase over the current road toll of 18 cents per gallon. [Here is the roll call](#) that shows how each representative voted. However, this bill is not yet finished in the House, since it has now been referred to the House Ways and Means Committee, which deals with all revenue bills, for further consideration.

The Ways and Means Committee has scheduled a hearing on **Thursday, March 14, 2013 at 1:30 p.m., in Representatives Hall at the State House.** Once again, we ask you to contact your legislators, especially those who serve on the [Ways & Means Committee](#), and urge continued support for **HB 617.** As explained in [Bulletin #10](#), projections show this bill would result in increased highway block grant funding for municipalities of **\$3.6 million in 2014** to over **\$13 million in 2017** and beyond, for a total increase of **\$117 million** over the next ten years. An estimate of the additional funding per year to each municipality is available [here](#).

Committee Supports Bonding for Broadband; House Votes Next Week

By a vote of 11-8, the House Science, Technology & Energy Committee voted this week to recommend passage of **HB 286**, which would enable municipalities to issue bonds for the construction of broadband infrastructure. The bill will go to the full House for a vote next **Wednesday, March 13**; as noted elsewhere in this *Bulletin*, the deadline for the House to act on all bills not in a second committee is March 14.

Please contact your representatives between now and Wednesday and urge them to support the committee recommendation of Ought to Pass. They will be lobbied hard by representatives of the telecommunications and cable industry, who are vigorously opposing this bill.

Persuasive arguments against this simple enabling legislation remain elusive. Opponents assert that municipalities should not be permitted to compete with private industry. As we explained in [last week's Bulletin](#), this makes little sense, given that municipalities already provide all kinds of “private” facilities and services — water infrastructure, trash hauling, ambulance service, bus service—when private industry

Bonding for Broadband - continued

is unable or unwilling to do so. There are private companies that build and maintain roads, provide security service, and offer fire protection—but they don't do it everywhere. Should towns get out of the road, police, and fire businesses just because private companies offer these services to limited populations?

The industry also argues that municipalities already can bond for such infrastructure, so the legislation is unnecessary and would result in over-building. However, the existing law allows bonding for infrastructure only in areas that are “not served,” and municipal attorneys have cautioned towns that this could be interpreted to prohibit bonding in a town where any portion of the town is served by broadband. It is often necessary to build infrastructure in an area that *is* served in order to get to an area that is *not* served. And in at least one town, a commercial provider has actually strung a significant amount of cable but has not activated it, apparently to prevent the town from being deemed an “area not served” and thus prevent the town from building its own infrastructure.

Opponents, including some on the committee, have argued that issuing a bond for broadband infrastructure is a risky proposition and could lead to fiscal problems for municipalities. That, however, seems like a classic red herring: are telecommunications companies really motivated by concern about municipal finances? Isn't that an issue for the voters and the bond market? One committee member took the issue a step further, expressing concern that the state could become liable if a town defaults on a bond. That concern is simply unfounded—there is no circumstance under which the state could become liable on a municipal bond.

This is a straightforward issue of municipalities trying to provide a needed service that is otherwise unavailable. If the industry could and would provide the service, no one would be seeking this legislation. Municipalities have no interest in competing with private industry or in providing infrastructure that someone else is willing to provide; but as with so many other things, when private business cannot provide what is needed, the municipality ought to have the ability—at the will of its voters—to fill the void.

Part-Time Employment of Retirees

This week the House Executive Departments and Administration Committee continued deliberations on two bills dealing with part-time employment of New Hampshire Retirement System (NHRS) retirees. **HB 364** was amended by the committee to require employers to provide written notice of the limitations on the 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 any NHRS retiree, and would also need to be provided *annually* to each existing part-time employee who is an NHRS retiree. The format of the notice would be provided by the NHRS. In addition to notice by the employer, the NHRS would also be required to notify every retiree annually in writing about the hourly limit and the consequences of exceeding that limit.

PT Employment of Retirees - continued

The amendment further states that an employer who provides this notice shall not be held liable for any consequence to an employee resulting from the employee's exceeding the limit. In other words, if the NHRS determines that the retiree worked too many hours and should have been restored to active service, then there may be financial consequences in terms of retroactive contributions and/or refund of pension payments. The employer would not be liable as long as written notice was provided as described above. Our concern is that, if there is a determination that a retiree should have been restored to active service, the retiree could simply claim that he or she was never told about the hourly limitation and that the employer is responsible for any financial consequence. The employer would then have to *prove* that written notice was provided in order to avoid that liability. As one committee member opposed to the amendment stated, "this creates a liability on employers that never existed before."

As we explained to the committee, having employers provide notice to retirees about the hourly limitations of part-time work is not the problem. The problem is the potential liability on employers that this new requirement establishes. 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 on employers. However, **HB 364** as amended was recommended ought to pass by a 12-7 vote and will now head to the full House for consideration. Please contact your representatives if this is of concern.

The second bill, **HB 342**, creates a new NHRS reporting requirement. Employers would need to report quarterly the name, hours worked and compensation paid to NHRS retirees. The purpose of this reporting requirement is to collect data and quantify the extent to which NHRS retirees are working in part-time positions for NHRS participating employers. **HB 342** as amended was recommended Ought to Pass by a vote of 18-1, and will also head to the full House for consideration.

Update on Environmental State Aid Grant Funding

On Thursday, representatives from the Department of Environmental Services (DES) presented their proposed biennial departmental budget before Division I of the House Finance Committee. Among the discussion items was funding for the "delayed & deferred" (D&D) environmental state aid grants program. One concern raised was halting the number of new public works projects being added to the D&D list until the legislature can find a long-term funding solution. Division members expressed a strong desire to amend HB 2 (the trailer bill that enacts statutory changes necessary to implement the operating budget) with moratorium language so that municipal and taxpayer expectations are managed better and the state can catch up on its financial obligations to those municipalities on the D&D list. The division asked the department to present some moratorium options and/or guidelines for consideration when it returns for its next work session, at **9:30 a.m. on Monday, March 11, in LOB Room 212.**

Bill Would Allow Elected Conservation Commissions

One of the livelier debates in the Senate yesterday centered on **SB 102**, which would give municipalities the option to elect their conservation commissions, rather than have them appointed by the selectmen (or by the mayor in a city). The Public & Municipal Affairs Committee had voted 3-2 to recommend killing the bill, but after a surprisingly spirited debate involving at least nine speakers, the Senate overturned the recommendation and passed the bill on a voice vote.

NHMA does not have a position on this bill, but we suspect many of our members do. The bill will be heading to the House at some point, and we expect it will go to the [Municipal & County Government Committee](#). If you have an opinion, please contact your representatives or members of the committee.

Default Budgets for Water and Sewer Funds

One of NHMA's legislative policies states, "NHMA supports legislation to allow for a default budget for enterprise funds submitted as stand-alone warrant articles." We did not submit a bill to implement the policy this year, but a late-introduced Senate bill would do just that. **SB 197**, as introduced, would allow the submission of a default budget for a sewer fund only (not for all enterprise funds).

The bill was heard this week in the Senate Public & Municipal Affairs Committee. NHMA has proposed an amendment that would expand the bill to include water funds. The amendment also makes clear that the bill would apply only to towns that have adopted the official ballot referendum form of town meeting (obviously), and makes some other clarifying changes. The bill was received positively, and the committee is likely to act on it next week.

Pollution Control Exemption Bill Retained

The House Municipal & County Government Committee voted 9-7 this week to retain **HB 672**, an **NHMA policy bill** that would limit the property tax exemption for pollution control devices. We would like to believe that the seven dissenting members voted against retaining the bill because they wanted to pass the bill, or amend it to repeal the exemption entirely; however, that does not appear to be the case. In any event, the bill will go to a subcommittee for study between now and November, which will allow more time to explain to members that there is no reason to keep this exemption alive, at least in its current form.

Credit Card Bill Retained

On Tuesday the House Commerce and Consumer Affairs Committee heard testimony on **HB 682**, which would ban the imposition of any surcharge on the use of credit cards to pay for goods or services. The committee heard opposition from several municipal officials, who expressed concerns about the effect this bill may have on their ability to pass on to the cardholder the convenience fee charged by credit card companies. An amendment was offered that would specifically exempt municipalities from the surcharge ban. However, the committee ultimately decided to retain the bill in committee in order to understand it better.

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: <https://www1.gotomeeting.com/register/899974928>

HOUSE CALENDAR

Joint House/Senate Meetings Are Listed Under This Section

MONDAY, MARCH 11

FINANCE, White Mountains Regional High School, 127 Regional Road, Whitefield.

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.

House Calendar - continued**Nashua Community College, 505 Amherst Street, Nashua.**

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.

THURSDAY, MARCH 14**WAYS AND MEANS, Room 202, LOB**

10:30 a.m. **HB 295**, requiring criminal background checks for volunteers and employees at youth skill camps.

Representatives Hall

1:30 p.m. **HB 617-FN-A-L**, increasing the rate of the road toll and establishing the New Hampshire state and municipal road and bridge account. **NHMA Policy**.

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 12****TRANSPORTATION, Room 103, LOB**

1:30 p.m. **HB 194**, relative to collection of permit fees paid with insufficient fund checks.

1:45 p.m. **HB 193**, relative to registration of vehicles by residents without a permanent street address.

WAYS AND MEANS, Room 103, SH

9:00 a.m. **SB 80**, relative to expanding the community revitalization tax relief program to provide incentives for rehabilitating historic structures.

9:15 a.m. **SB 179**, clarifying the definition of "renewable generation facility" for purposes of payments in lieu of property tax payments.

Senate Calendar - continued**WEDNESDAY, MARCH 13****ENERGY AND NATURAL RESOURCES, Room 103, SH**

9:45 a.m. **SB 167**, relative to groundwater.

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

10:10 a.m. **HB 347**, authorizing cottage housing development as an innovative land use control.

**FLOOR ACTION**

Wednesday, March 6, 2013

HOUSE

HB 121-FN, requiring drug testing of applicants for Temporary Assistance to Needy Families (TANF). **Inexpedient to Legislate.**

HB 206, relative to political advertising. **Ought to Pass.**

HB 252, consolidating the property appraisal division and the municipal services division of the department of revenue administration. **Ought to Pass.**

HB 269-L, authorizing a city or town to conduct a special meeting necessitated by changes in adequate education funding. **Ought to Pass with Amendment; referred to Finance Committee.**

HB 276, relative to wildlife resistant solid waste storage and disposal. **Inexpedient to Legislate.**

HB 277, relative to the oath required of public officers. **Inexpedient to Legislate.**

HB 308, relative to technical changes to election laws. **Ought to Pass.**

HB 320-FN, establishing a state bank. **Inexpedient to Legislate.**

HB 332-FN-A-L, relative to antique vessel registration. **Inexpedient to Legislate.**

HB 383, relative to operation of OHRVs on the traveled portion of public highways, where permitted. **Ought to Pass with Amendment.**

HB 423-L, relative to amending official ballot warrant articles **Inexpedient to Legislate.**

HB 428, relative to funds for dam maintenance, removal and improvement. **Ought to Pass with Amendment.**

Floor Action - continued

HB 445-FN-L, allowing public employers in the state to buy into the state health insurance plan. **Inexpedient to Legislate.**

HB 521, establishing a committee to study New Hampshire election laws and procedures. **Ought to Pass.**

HB 617-FN-A-L, increasing the rate of the road toll, increasing the vehicle registration fee, and establishing the New Hampshire state and municipal road and bridge account. **Ought to Pass with Amendment; referred to Ways and Means Committee.**

HB 667-FN-A, establishing a temporary surcharge to the road toll to be dedicated to funding the state 10-year transportation improvement plan for rural and town roads **Inexpedient to Legislate.**

HB 669-FN-L, relative to nonpayment of property taxes on current use land **Inexpedient to Legislate.**

SB 40-FN-L, relative to distribution of education funds for fiscal year 2013. **Ought to Pass.**

SENATE

SB 36-L, relative to the property tax exemption for veterans who are totally and permanently disabled from service connection. **Re-refer to committee.**

SB 77, instituting a state minimum hourly rate. **Laid on Table.**

SB 90, establishing a committee to study developing a policy for veteran preference for government hiring. **Ought to Pass.**

SB 102, relative to the selection of members of the conservation commission. **Ought to Pass.**

SB 150-FN-A-L, making an appropriation to the department of revenue administration for the purpose of reimbursing cities and towns for certain flood control payments. **Laid on Table.**

SB 172-FN-L, relative to public funds. **Ought to Pass; referred to Finance Committee.**

SB 183-FN, relative to proof of identity by voters. **Re-refer to committee.**

SB 185, establishing a commission on housing policy and regulation. **Ought to Pass with Amendment.**
