

LEGISLATIVE BULLETIN

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INSIDE THIS ISSUE:

<i>Gas Tax Vote</i>	2
<i>Bonding for Broadband</i>	2
<i>State Aid Grant Funding</i>	4
<i>Hiring NHRS Pensioners</i>	4
<i>Credit Card Bill</i>	5
<i>Water's Worth It! Legislative Breakfast</i>	5
<i>Calendars</i>	6
<i>New Bills</i>	7

Finance Committee Needs To Hear From Municipal Officials

The House Finance Committee is busy analyzing the Governor's budget proposal in anticipation of presenting its own version of the biennial state operating budget to the full House for a vote by April 4. As part of its deliberations, the committee has scheduled a series of public hearings around the state. 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 environmental grants for water, wastewater, and landfill closures, and highway block grant funding.

The meals and rooms tax distribution to cities and towns had a catch-up formula that was suspended four years ago. The intent of this growth formula was to gradually increase the municipal/state sharing of the meals and rooms tax revenue to the statutory apportionment of 40 percent municipal/60 percent state. While the municipal apportionment had reached a high of approximately 29 percent in 2010, the suspension of the growth formula caused the municipal share to drop to approximately 25 percent by 2013. The Governor's budget includes an additional \$5 million for the meals and rooms tax distribution in the second year of the biennium, but it is not yet clear whether that is a one-time increase in the distribution, or a restoration of the catch-up formula. Click [here](#) to see how the municipal share has grown, and then shrunk, since 2001.

As we have stated on numerous occasions, environmental grant funding for the 127 projects on the Department of Environmental Services' delayed and deferred list is a top NHMA priority. The Governor's budget provides \$3 million in the second year of the biennium, but only for deferred wastewater projects. The House Finance committee heard extensive testimony two weeks ago on **HB 623**, dealing with the all the delayed and deferred projects, and the public hearings provide one more opportunity to advocate funding for these projects.

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Finance Committee - continued

Finally, while the Governor's budget level-funded the highway block grants, **HB 617**, dealing with the gas tax increase (see related article below), would increase significantly the level of funding to municipalities. Although the gas tax increase is not part of the operating budget on which testimony is sought at these public hearings, it is important for committee members to hear about the impact of highway funding in your community.

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

Thursday, March 7

Concord: State House, Representatives Hall, 4:00 to 7:00 p.m.

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.

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.

Gas Tax Vote Next Week

This week's House session was cancelled because of weather. This means that if you did not get a chance to contact your state representative(s) to urge support for the gas tax increase in **HB 617**, you still have time! This bill is now on the agenda for the House session scheduled for next **Wednesday, March 6**. As we reported in last week's *Legislative Bulletin*, this is a four-cent increase in each of the next three years, and then a three-cent increase in the fourth year. Projected increases in highway block grant funding to municipalities are **\$3.6 million in 2014** to over **\$13 million in 2017** and beyond. An estimate of the additional funding per year to each municipality is available [here](#). Contact your representatives right now!

Committee to Vote on Bonding for Broadband

The House Science, Technology and Energy Committee heard three hours of testimony this week on **HB 286**, which would allow municipalities to issue bonds for broadband infrastructure. Representatives from several municipalities and from NH FastRoads, the Grafton County Economic Development Council, and one internet service provider testified in support of the legislation, explaining that many towns have significant areas where no broadband service is available and where commercial providers have no plans to expand access.

Bonding for Broadband - continued

The bill was broadly opposed by the telecommunications industry, with representatives from FairPoint, Comcast, the New Hampshire Telephone Association, and the New England Cable Television Association testifying against it. Their main objection, repeated several times, seemed to be that municipalities should not be spending taxpayer money to compete with private industry.

We see several problems with that argument. The first is its inconsistency with practical reality and common understanding. Local governments “compete” with private industry in providing all kinds of services, from drinking water to solid waste disposal to bus service. Few people object to these public services, although taxpayers may not want to fund them, in which case they can refuse — just as they could decline to approve a bond under **HB 286**.

Second, the bill would not allow municipalities to compete with private business in providing internet service — it expressly states, “No municipality shall be a retail provider of broadband service.” It would merely allow them to bond for construction of the infrastructure, which would then be made available to service providers.

Finally, the private companies are not doing anything for municipalities to compete *with*. The whole point of the bill is to allow municipalities to provide infrastructure *because the industry has failed to do so*. FairPoint and Comcast representatives testified about the dramatic expansions of their networks, but did not dispute that plenty of residents remain unserved. The FairPoint representative indicated that the company considers DSL service adequate for residential customers, and has no plan to make faster service available to large swaths of its service territory.

One opponent of the bill stated that the solution for unserved areas is technology that will be developed sometime in the future. Meanwhile, residents just have to wait. The town manager from Hanover — hardly a rural outpost — testified that 40 percent of the town’s geographic area does not even have access to DSL.

The industry is not to be faulted for failing to make high-speed internet universally available. It is expensive to do so, and choosing not to string fiber down every dirt road is a legitimate business judgment. However, high-speed internet is no longer a luxury; it is an essential service in many respects. It is critical to business development, education, and even the housing market. (There was testimony that, not surprisingly, areas without access have lower property values.) As with other essential services, if private industry cannot meet the need, local governments should have the option. We do not understand why the industry opposes municipal construction of infrastructure that no one else is willing to provide.

The [committee](#) has a work session on the bill on **Tuesday, March 5, at 10:00 a.m., in LOB Room 304**, followed by executive session the same day at 2:00. This bill provides an important opportunity to many municipalities. Please call members of the committee and your own representatives and urge them to ***support HB 286***.

Updates on Environmental State Aid Grant Funding

House Finance Committee Budget Hearing Schedule

As reported above (“Finance Committee Needs to Hear from Municipal Officials”), the House Finance Committee is taking to the road to hear from residents and taxpayers through a series of public budget hearings around the state. We hope municipalities that have completed and eligible “delayed and deferred” projects snagged in the environmental state aid grant (SAG) program will attend and express their continued concern that the state fund these important projects.

The SAG program has proven to be an effective means to fund the construction or rehabilitation of water infrastructure that protects drinking water and treats wastewater. Appropriating the funds to maintain this infrastructure is critical if the state is to protect public health and provide clean water for its residents and visitors.

Local government officials and citizens have historically relied on the state’s commitment to this funding partnership that was created in 1959 to make these environmental investments at the local level more affordable. Please attend these hearings and tell your story and/or share the hardship your city or town has faced as a result of the funding delay.

DES Budget Work Session

On March 7 at 11:00 a.m., in LOB Room 212, [Division I](#) of the House Finance Committee will hold a work session on the Department of Environmental Services budget. Although the Finance Committee has recommended that **HB 623**, the SAG funding bill, be killed, it was with the promise that Division I would look hard to find the necessary funding for this critical infrastructure program. In fact, the Division I chairman has indicated that funding the SAG program is a “top priority” for the division. No public testimony will be taken at the work session, but it is open to the public.

Hiring NHRS Pensioners

There continues to be much concern about local government employers hiring part-time employees, particularly if those employees are New Hampshire Retirement System (NHRS) retirees. A subcommittee of the House Executive Departments and Administration committee held work sessions this week on two bills dealing with this issue. **HB 342**, which as introduced would lower to 24 the number of hours an NHRS retiree could work per week, may be amended to instead require employers to report to the NHRS when full-time positions are changed to part-time positions. It is not clear how or when such reporting would be done, or what the definitions or criteria for this reporting would be. For example, if a municipality hires someone for a position under a multi-year grant which eventually runs out, but then decides to have a part-time person continue in that position, is that reportable? Or if a position is eliminated through attrition, but then re-created a year later as a part-time position, is that reportable?

NHRS Pensioners - continued

The second bill is **HB 364**, which requires employers to provide notice of the limitation on part-time employment to prospective part-time employees who are retired members of the NHRS — *i.e.*, to notify them that working too many hours may jeopardize their pension. NHMA argued that this is an issue between the NHRS and the retiree, and that notice about a potential impact on an individual's pension from accepting part-time employment should come from the NHRS, not the municipality. We are also concerned about possible liability for the municipality. Municipalities would need to keep documentation for several years to prove that the part-time worker was properly warned that accepting such employment may jeopardize his or her pension.

Both of these bills will be addressed by the subcommittee on **Monday, March 4 at 10:00 a.m.** and the full committee on **Tuesday, March 5, at 1:00 p.m. in LOB Room 306.**,

Credit Card Bill Hits the Docket Late

Several late House bills were introduced and hit the legislative docket just this week. One is **HB 682**, which makes it an unfair and deceptive practice to impose a surcharge upon a consumer who elects to pay for goods or services via a credit card. With many municipalities already accepting credit card payments, or in the process of implementing a credit card payment option, it is not surprising that word of this bill created a stir in the municipal finance community.

One issue surrounding acceptance of credit card payments has been the assessment of the convenience fee charged by the credit card companies, and passing that fee onto the cardholder. This issue has been adequately addressed by having municipalities fully disclose the fees associated with credit card payments. It is not clear whether the “surcharge” banned in **HB 682** includes this convenience fee, or deals with some other type of charge beyond the convenience fee. A ban of the convenience fee would likely eliminate the ability to accept credit card payments, since most municipalities could not justify absorbing those fees in their budgets. A hearing on this bill is scheduled for **10:00 a.m. on Tuesday, March 5, in LOB Room 302** before the Commerce and Consumer Affairs Committee.

Water's Worth It! Legislative Breakfast

Members are invited to attend the annual *Water's Worth It!* legislative breakfast on **Wednesday, March 6**, at the Holiday Inn on Main Street in Concord. Sponsored by the New Hampshire Water Pollution Control Association, the event begins at 7:00 a.m. with a breakfast buffet. During the breakfast, water quality professionals will present information on drinking water, wastewater treatment, and stormwater management in New Hampshire. There is no cost for this event, and members are invited to mingle with state legislators and learn more about New Hampshire's water infrastructure. Please RSVP to nhwpc.linda@gmail.com to reserve your seat at the breakfast.

HOUSE CALENDAR
Joint House/Senate Meetings Are Listed Under This Section

TUESDAY, MARCH 5

COMMERCE AND CONSUMER AFFAIRS, Room 302, LOB

10:00 a.m. **HB 682-FN**, relative to credit card fees.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB

10:00 a.m. **HB 683-FN**, relative to the retirement system status of the director and assistant director of the division of homeland security and emergency management.

JUDICIARY, Room 208, LOB

10:00 a.m. **HB 685**, relative to state agency communications under the right-to-know law.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

10:00 a.m. **HB 684**, relative to bridge replacement and bridge aid funds.

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

1:00 p.m. **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.

THURSDAY, MARCH 7

FINANCE, Representatives Hall

4:00 p.m. Public hearing on Governor's proposed budget.

SENATE CALENDAR

WEDNESDAY, MARCH 6

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

10:30 a.m. **SB 197**, relative to the inclusion of a default budget in separate warrant articles submitted by sewer commissions.

TUESDAY, MARCH 12

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.

NEW BILLS

House

[HB 682-FN](#) prohibits imposition of a surcharge on a consumer who elects to pay for goods or services with a credit card. Rep. Myler of Hopkinton; **COM-H**.

[HB 683-FN](#) allows the director and the assistant director of the division of homeland security and emergency management the option not to rejoin the retirement system and provides that if either of them was previously a group II member and does rejoin the system, he or she is eligible to be a group II member. Rep. Kaen of Lee; **ED&A-H**.

[HB 684](#) requires the state to reimburse municipalities for the cost of replacing bridges according to the bridge replacement aid schedule. Rep. Rowe of Amherst; **PW**.

[HB 685](#) declares that final contracts awarded by the state or its political subdivisions are subject to the right-to-know law. Rep. Leishman of Peterborough; **JUD-H**.