

LEGISLATIVE BULLETIN

Bulletin 14, 2018 Session
March 23, 2018

Quick Hearing on Town Meeting Postponement Bill

SB 438, the bill that delegates town meeting postponement authority to the Secretary of State and wreaks havoc with the town meeting statutes, is already scheduled for a hearing before the House [Election Law Committee](#). The bill will be heard on **Thursday, March 29th at 1:15 p.m.** in **LOB Rooms 305-307 (that’s a double room, so let’s fill it!)**.

This hearing comes on the heels of yet another town meeting voting day when moderators and other local officials faced double the snow levels predicted, challenging travel conditions, and voters who asked why the voting was not postponed. Although the law clearly gives the moderator authority to postpone, a memorandum stating the opposite, signed by the Attorney General and the Secretary of State, was sent to election officials a few days before town meeting day, leaving moderators feeling that they had no options—no ability to postpone, no ability to delay the opening of polls, no authority to hand out absentee ballots because of the snow storm.

We urge you to attend the hearing and tell the committee what you heard at the polls and what you think should be done. Please attend the hearing even if you do not wish to testify, as you can register your position by signing on the “blue sheet.” **SB 438** has been thoroughly reported in prior *Bulletins*, particularly [#9](#) and [#10](#), but if you need additional information, please contact the [government affairs staff](#).

Mid-term

Yesterday was crossover day, the last day for the House to act on House bills and for the Senate to act on Senate bills. This means that all surviving bills have now “crossed over” from the originating chamber to the other.

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(Mid-term— Continued from Page 1)

Most of the action in the last two weeks has been on the floors of the House and Senate; the action now shifts back to the committees. There is a very heavy committee hearing schedule for next week, and no House or Senate session. We are not able to write about all of the hearings, so please check the calendar at the end of this *Bulletin*, as well as the House and Senate calendars.

The following articles describe the most important hearings scheduled for next week (and a few from this week). Please take note and let your representatives know what you think. As always, you are encouraged to attend the hearings and express your opinions.

Interest on Delinquent Taxes

On Wednesday the Senate Ways and Means Committee heard testimony on [HB 1673](#), which lowers the interest rates on delinquent taxes from 12% pre-lien and 18% post-lien to the rate established annually by the Department of Revenue Administration (DRA) under RSA 21-J:28, II, currently 6%. Many municipal officials testified in opposition to the bill, emphasizing that municipalities do not want to take property for delinquent taxes, and will do all they can to ensure that people remain in their homes, using exemption, credit, elderly deferral, property tax relief, and abatement provisions authorized in current law. As one municipal official stated, the real impact of the bill is the effect it will have on behavior, since reduction of the interest rates will remove the incentive to pay property taxes on time or make property taxes a priority over other payments. Another official stated that two-thirds of delinquent taxes in her city are paid once the notice of lien (with the impending change from 12% to 18% interest) is issued, a clear indication that the higher interest rate is a motivating factor for property tax payments.

Higher delinquency rates are a serious concern that naturally affect cash flow; but they also affect bond ratings, since collection rates, history of tax delinquencies, and cash flow are all factors reviewed by credit rating agencies. A representative from the New Hampshire Tax Collectors Association explained the training and other information provided to tax collectors to ensure their understanding of the statutory requirements regarding notice on tax bills of tax relief provisions, including the right to request an abatement.

As highlighted on page 6 in [Bulletin #10](#), NHMA testified that DRA may assess up to 21% in interest and penalties for unpaid state taxes, not just the 6% interest rate that bill supporters claim. We also clarified that RSA 76:16 authorizes selectmen to abate both tax and “*any portion of interest accrued*,” an amendment enacted in 1993 to specifically provide municipalities the ability to address property tax delinquencies on a case-by-case basis, rather than lowering interest rates.

Please contact members of the [Senate Ways & Means Committee](#) to let them know how you help taxpayers in your municipality avoid losing their property and the importance of retaining the incentive that higher interest rates provide.

Right-to-Know Law Hearings

The House Judiciary Committee has hearings on two important Right-to-Know Law bills next week. Both hearings are on **Tuesday, March 27, in LOB Room 208.**

Ombudsman. At 10:00 a.m., the committee is scheduled to hear [SB 555](#), which provides for the appointment of a “right-to-know ombudsman.” Any person claiming a violation of RSA 91-A could file a complaint with the ombudsman as an alternative to filing suit in superior court, which currently is the only process for resolving complaints. A superior court action would still be permitted; a party would have the choice, and by choosing one option would waive the right to pursue the other. The ombudsman would be a New Hampshire attorney with at least ten years of experience in full-time practice, and would be knowledgeable about the Right-to-Know Law and similar federal and state laws.

The bill also provides for the appointment of a 17-person Citizens’ Right-to-Know Appeals Commission, which would establish rules of procedure, make recommendations to the legislature for changes to the law, and create and update educational materials about the law. As we have stated before, we are not certain how useful that commission would be, and are a bit concerned that, unlike the ombudsman, members of the commission would not be required to know anything about the Right-to-Know Law.

Access to records. At 11:00 a.m., the committee is scheduled to hear [SB 395](#), dealing with access to governmental records. As passed by the Senate, the bill provides that if a person requesting records is not able to appear at the public body or agency’s office to inspect and obtain copies of records, the public body or agency is required to make a reasonable effort to accommodate a request to provide the records in some other manner. This could include making them available at a different time or place, sending them electronically, or posting them on a website, “and shall be at no additional cost to the public body or agency.”

If you have thoughts or concerns about either bill, please share them with members of the [Judiciary Committee](#) and with your own representatives, and let us know as well.

Default Budgets

The Senate Public and Municipal Affairs Committee has a hearing scheduled for next Tuesday on [HB 1307](#), dealing with default budgets. The bill provides that the default budget in an official ballot referendum (SB 2) town must be “presented for questions and discussion using the same individual line items in the detailed operating budget or chart of accounts that is regularly used by the local political subdivision to present its operating budget.”

The bill also adds a definition of “contracts,” which is relevant because the existing law defines the default budget as the previous year’s budget, “reduced and increased, as the case may be, by debt service, *contracts*, and other obligations previously incurred or mandated by law, and reduced by one-time expenditures contained in the operating budget.” Under the bill, “contracts” would mean “contracts previously approved, in the amount so approved, by the legislative body in either the operating budget authorized for the previous year or in a separate warrant article for the previous year.”

The House inserted this definition to address a situation where, for example, the governing body enters into a contract during the current year that was not the subject of an appropriation in the operating budget or otherwise approved by the legislative body. If the governing body has enough money in the current budget, it can transfer money to pay that contract in the current year, but that leaves open the question of whether the default budget for next year may be increased by the amount of the contract payments for next year. **HB 1307** answers that question in the negative.

(Default Budgets— Continued from Page 3)

Although some local officials have expressed concern about this, we do not think it is unreasonable. We have always understood the “contracts” provision in RSA 40:13, IX, to refer to pre-existing contracts. It was not intended to allow the governing body to enter into a new contract on December 30 and add that contract amount to the default budget for the following year.

Nor should this limitation create a problem for other pre-existing obligations. The bill does not eliminate the provision for “other obligations previously incurred or mandated by law,” so any legitimate obligations arising from something other than a contract (*e.g.*, pension contributions) will not be affected.

We do not plan to oppose the bill in the Senate, although we will suggest a few technical changes. (We believe “*the* previous year” at the end of the definition should be changed to “*a* previous year”—because, for example, a collective bargaining agreement may have been approved two years ago, not last year). If you have concerns, please let us know, and consider attending the hearing, which is scheduled for **Tuesday, March 28, at 9:45 a.m., in LOB Room 104.**

Timber Yield Tax

On **Wednesday, March 28, at 10:30 a.m. in LOB Room 102**, the Senate Public and Municipal Affairs Committee will hold a hearing on [HB 1473](#), which makes several changes to RSA 79, the timber tax law. The bill authorizes a municipality to waive the timber yield tax when the harvesting is on land owned by, and located in, a municipality. The bill also eliminates the requirement to file a supplemental notice of intent to cut when the total volume of the cut exceeds the total volume reported in the intent to cut by less than 25 percent. Finally, the bill changes the time period from 30 days to 15 days for the municipality to sign the intent to cut and assign a number to that operation, requires that public notice of the intent to cut be posted in the two places where the municipality normally posts notices of its governing body meetings, and allows the assessing officials to sign the intent to cut outside a public meeting. The bill has an effective date of September 1, 2018. Municipal officials with concerns about the bill are encouraged to attend the hearing or submit written comments to [members of the committee \(with a copy to NHMA\)](#).

Bonding for Broadband

[SB 170](#), an **NHMA policy bill** that gives municipalities somewhat greater ability to issue bonds for broadband infrastructure, is scheduled for a hearing in the House Municipal and County Government Committee on **Tuesday, March 27, at 2:15 p.m., in LOB Room 301**. Bonding for broadband infrastructure has been an issue in the legislature for at least ten years, and this is the closest we have come to improving the law.

The bill, which represents a compromise with the telecommunications industry, would enable municipalities to issue bonds for broadband infrastructure to serve any “location” within a municipality that is currently unserved, but only after requesting information from all providers serving the municipality and then issuing a request for proposals to engage in a public-private partnership for the deployment of infrastructure and the provision of broadband service. If the municipality determines that no provider has met the criteria in the request for proposals, it may issue bonds without engaging in a public-private partnership.

Other Hearings

As mentioned above, there are more hearings next week than we can cover in detail. Here are brief summaries of a few more:

Amendments to warrant articles. The House Municipal and County Government Committee has scheduled a hearing on [SB 506](#), dealing with amendments to petitioned warrant articles, on **Tuesday, March 27, at 10:20 p.m., in LOB Room 301**. As introduced, this bill would have prohibited the deliberative session in an SB 2 town from amending a petitioned warrant article; fortunately, the Senate deleted that provision. As amended, the bill merely provides that any “textual changes” the selectmen make to a petitioned article before placing it on the warrant “shall not in any way change the intent of the article as presented in the original language of the petition.” We consider this to be merely a clarification of the existing law.

Fire marshal’s authority. The House Executive Departments and Administration Committee will hear [SB 55](#), relative to the servicing of backflow devices and (of more relevance) the arrest powers of fire marshals. The bill would eliminate the power of the state fire marshal and deputy marshals and fire investigators to “detain and make arrests as a peace officer.” Eliminating this authority will shift a heavy burden onto local agencies that do not have the resources or expertise to investigate and prosecute arson and related crimes. The state fire marshal opposes this change, and so do many local officials. Please make sure your police, fire, and building officials know about this bill, and have them contact [the committee](#) or attend the hearing, which is scheduled for **Wednesday, March 28, at 1:30 p.m., in LOB Room 306**.

Net energy metering. On Wednesday, the House Science, Technology and Energy Committee will hold a hearing on [SB 446](#), an **NHMA policy bill** that increases the maximum allowable capacity for net-metered renewable energy projects to five megawatts (from one megawatt). If your municipality is involved in, or considering, any such projects, please consider sending someone to the hearing to speak in support; and in any event, please encourage [committee members](#) and your own representatives to support the bill. The hearing is in **LOB Room 304 on Wednesday, March 28, at 10:00 a.m.**

Veteran’s credits. On **Tuesday, March 27, at 11:00 a.m. and 11:20 a.m., in LOB Room 301**, the House Municipal and County Government Committee will hold hearings on [SB 341](#) and [SB 503](#), respectively. **SB 341** increases the maximum amount for the service-connected total disability tax credit from \$2,000 to \$4,000, so that the range for the optional credit would be \$701 to \$4,000. **SB 503** increases the maximum amount of the optional veteran’s tax credit from \$500 to \$750, so the range for this optional credit would be \$51 to \$750.

Water quality standards. On **Tuesday, March 27, at 10:00 a.m., in LOB Room 305**, the House Resources, Recreation and Development Committee will hold a public hearing on [SB 309](#), dealing with perfluorochemicals in drinking water, ambient groundwater, and surface water. While somewhat comparable to [HB 1101](#) in its approach to setting standards for drinking water and ambient groundwater, **SB 309** goes further by requiring standards for surface water. From the testimony provided at the Senate hearing last month, we understand the Department of Environmental Services has concerns with this aspect of the bill, since it has never set standards for surface water and believes extensive resources will be needed to do so. To address that concern, the surface water provision would not take effect until January 1, 2020, after adoption of the next state biennial budget, while the drinking water and ambient groundwater provisions would take effect January 1, 2019.

Utility Valuation

The logjam on the utility valuation issue finally broke this week. The House voted to table **HB 1381**, the bill that, with a committee amendment, would establish a valuation formula for utility distribution assets. It then passed **HB 324**, which creates a commission to study utility valuation. NHMA supported both of these actions. While we would have preferred to see **HB 1381** killed, it is essentially dead. The bill can still be taken off the table, but because the deadline for acting on House bills has passed, the House would have to suspend its rules to take any further action. That would require a two-thirds vote and is a virtual impossibility.

HB 324 will now move to the Senate, where a hearing will be scheduled in the next few weeks.

Motor Vehicle Registration Bills

On Thursday the House acted on two bills dealing with motor vehicle registration fees. **HB 1763**, which establishes a road usage fee as part of the annual registration of passenger vehicles, passed the House by a vote of 168 -152. As explained in last week's *Bulletin*, the additional fee would range from \$0 for vehicles averaging less than 20 miles per gallon of gasoline to \$111 for vehicles such as electric vehicles that use no gasoline and therefore pay no gas tax. The bill will provide desperately needed funding (approximately \$21 million per year) for state and local roads and bridges and will counter the impact of declining gas tax revenues from the projected increase in energy-efficient vehicles. The bill now heads to the Senate, where we anticipate a rough ride.

After a motion to indefinitely postpone failed by a vote of 165-167, the House voted 186-147 to table **HB 579**, dealing with discounted multi-year registrations for out-of-state semi-trailers. For the reasons explained in last week's *Bulletin*, we preferred to see the bill killed, as the Finance Committee recommended, since there is still a slim chance for a tabled bill to be resurrected before the session ends. We'll just have to keep a sharp eye out for this one.

NHMA's 2019-2020 Legislative Policy Process Starting

The first meeting of NHMA's legislative policy committees will be Friday, April 6. Appointed and elected local officials from around the state will gather in three policy committees: Finance and Revenue, General Administration and Governance, and Infrastructure, Development, and Land Use. We thank all the volunteers who signed up for this important part of NHMA's legislative advocacy program.

At this meeting committee members will receive an overview of the legislative policy process and may even start to discuss legislative policy proposals for the coming biennium.

That's where **YOU—YES YOU**—come in!

Now is the time to submit any legislative policy suggestions you would like to have the committees review. Any local official can submit a policy proposal at this point in the process. [Here is a link](#) to the legislative policy proposal form that you should use to submit your proposal so we have all the information the committees need.

Do you have ideas for how local government can work more efficiently *but for* the language of a statute? Is there an outdated law that gets in the way? Do you have suggestions for how local government can work better? Submit your ideas as a policy proposal!

(Policy Process— Continued from Page 6)

Each policy committee will recommend a set of policy proposals for review by every member municipality and ultimately for consideration at the NHMA Legislative Policy Conference on September 14. We encourage your involvement.

If you have any questions, please do not hesitate to contact us.

HOUSE CALENDAR

TUESDAY, MARCH 27, 2018

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 203, LOB

10:00 a.m. **SB 324-FN**, allowing an optional retirement system allowance to include a subsequent remarriage of a divorced retiree.

JUDICIARY, Room 208, LOB

10:00 a.m. **SB 555-FN-A**, establishing a citizens' right-to-know appeals commission and a right-to-know law ombudsman and making an appropriation therefor.

11:00 a.m. **SB 395**, relative to access to records under the right-to-know law.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

10:00 a.m. **SB 339**, relative to voting by zoning boards of adjustment.

10:20 a.m. **SB 506**, limiting amendments to warrant articles.

10:40 a.m. **SB 505**, requiring abutter notice of the construction of a crematory.

11:00 a.m. **SB 341**, relative to the veterans' property tax credit for service-connected disability.

11:20 a.m. **SB 503**, relative to increasing the maximum amount of the optional veterans' tax credit.

1:30 p.m. **SB 504-FN**, relative to sales of tax-deeded property.

1:50 p.m. **SB 510**, relative to municipal notice of leases on tax-exempt property.

2:15 p.m. **SB 170**, relative to the authority of towns to issue bonds for the expansion of broadband infrastructure. **NHMA Policy.**

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

10:00 a.m. **SB 309-FN**, relative to standards for perfluorochemicals in drinking water, ambient groundwater, and surface water.

10:20 a.m. **SB 450-FN-A**, establishing an advisory commission for the department of environmental services relative to the delegation of authority of the National Pollutant Discharge Elimination System Program.

10:40 a.m. **SB 528-FN-L**, relative to dam registration fees and relative to permit fees for constructing or reconstructing a dam.

TRANSPORTATION, Rooms 306-308, LOB

2:00 p.m. **SB 516**, prohibiting motorcycle-only checkpoints.

WEDNESDAY, MARCH 28, 2018

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 307, LOB

11:00 a.m. **SB 417**, relative to days of rest for employees of recreation camps and youth skill camps.

11:20 a.m. **SB 428**, relative to the payment of weekly and biweekly wages.

1:00 p.m. **SB 553-FN**, establishing a commission to study the incidence of post traumatic stress disorder in first responders and whether such disorder should be covered under workers' compensation.

(House Calendar— Continued from Page 7)

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

1:20 p.m. **SB 464**, relative to the procedure for driveway permits.

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

10:00 a.m. **SB 446**, relative to net energy metering limits for customer-generators. **NHMA Policy.**

ELECTION LAW, Rooms 305-307, LOB

10:30 a.m. **SB 320**, relative to checklists used at elections.

11:30 a.m. **SB 527-FN-L**, relative to absentee voting.

1:15 p.m. **SB 438**, relative to the postponement of local elections.

THURSDAY, MARCH 29, 2018

ELECTION LAW, Rooms 305-307, LOB

10:30 a.m. **SB 320**, relative to checklists used at elections.

11:30 a.m. **SB 527-FN-L**, relative to absentee voting.

1:15 p.m. **SB 438**, relative to the postponement of local elections.

TUESDAY, APRIL 3, 2018

TRANSPORTATION, Room 203, LOB

10:00 a.m. **SB 522**, relative to alteration of speed limits.

FRIDAY, APRIL 6, 2018

**ASSESSING STANDARDS BOARD (RSA 21-J:14-a), Department of Revenue Administration,
Conference Room 334, 109 Pleasant Street, Concord**

1:00 p.m. Subcommittee meeting on utility valuation.

SENATE CALENDAR

TUESDAY, MARCH 27, 2018

FINANCE, Room 103, SH

1:00 p.m. **HB 559-FN**, relative to expenditures from the energy efficiency fund.

WEDNESDAY, MARCH 28, 2018

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 101, LOB

9:00 a.m. **HB 1441-FN**, establishing the office of the ombudsman in the department of state.

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

9:45 a.m. **HB 1307**, relative to the presentation of a default budget.

10:30 a.m. **HB 1473-FN**, relative to the timber yield tax.

THURSDAY, MARCH 29, 2018

JUDICIARY, Room 100, SH

9:30 a.m. **HB 1788-FN-L**, relative to costs charged under the right-to-know law.

9:45 a.m. **HB 1283**, prohibiting sobriety checkpoints.

RULES AND ENROLLED BILLS, Room 103, SH

- 10:00 a.m. **CACR 16**, Relating to privacy. Providing that an individual's right to live free of governmental intrusion is natural, essential, and inherent.
- 10:15 a.m. **CACR 15**, relating to legal actions. Providing that taxpayers have standing to bring actions against the government.

WEDNESDAY, APRIL 4, 2018

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

- 9:00 a.m. **HB 1215**, relative to voting on variances.
- 9:15 a.m. **HB 1216**, relative to liability for deferred property taxes and relative to applications for abatement of property taxes.
- 9:30 a.m. **HB 1533**, relative to termination of variances and special exceptions.

WEDNESDAY, APRIL 11, 2018

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

- 9:45 a.m. **HB 1786-L**, prohibiting costs for inspection of governmental records under the right-to-know law.
- 10:00 a.m. **HB 1450**, relative to retention of job applications and personnel files.

HOUSE FLOOR ACTION

Wednesday, March 21, 2018

Thursday, March 22, 2018

CACR 11, relating to elections. Providing that a majority of selectmen shall be present at certain polling places. **Inexpedient to Legislate.**

HB 324, relative to the valuation of utility property. **Passed with Amendment.**

HB 579-FN, relative to registration of semi-trailers. **Tabled.**

HB 1104-FN, (New Title) relative to dredge and fill permit time limits; relative to time limits under the administrative procedure act; and relative to online filing with the secretary of state's office. **Passed with Amendment.**

HB 1210, establishing a committee to study the effect of current use taxation on small and rural municipalities. **Tabled.**

HB 1240, allowing voters to vote for multiple candidates for an office. **Inexpedient to Legislate.**

HB 1347, relative to information to be included in the minutes under the right-to-know law. **Passed with Amendment.**

HB 1381, relative to determining the taxable value of utility property for local property taxation. **Tabled.**

HB 1393, relative to compensation for vacation time and personal time earned. **Inexpedient to Legislate.**

HB 1417-FN, relative to failure to make workers' compensation payments. **Inexpedient to Legislate.**

(House Floor Action— Continued from Page 9)

HB 1436, relative to lakes with shared borders with 2 or more towns. **Inexpedient to Legislate.**

HB 1463, relative to requirements for noise ordinances in towns. **Inexpedient to Legislate.**

HB 1507-FN, relative to state inspection of new motor vehicles. **Inexpedient to Legislate.**

HB 1541-FN, relative to registration and road toll fees for hybrid and electric vehicles. **Inexpedient to Legislate.**

HB 1543, relative to domicile of students for voting purposes. **Inexpedient to Legislate.**

HB 1549, relative to the availability of vehicle accident reports. **Passed.**

HB 1592-FN, (New Title) requiring the commissioner of the department of environmental services to review standards relative to arsenic contamination in drinking water. **Passed with Amendment.**

HB 1609, establishing a local option for an additional surcharge on occupancy under the meals and rooms tax. **Inexpedient to Legislate.**

HB 1627-FN, prohibiting the transmission of images or sounds of another person who is on private property or to conduct surveillance activity. **Passed.**

HB 1652, relative to default budgets. **Interim Study.**

HB 1701, making the Coakley Landfill Group subject to the provisions of RSA 91-A. **Tabled.**

HB 1711-FN, relative to rehabilitation under the workers' compensation law. **Inexpedient to Legislate.**

HB 1759-FN, regulating the use of drones. **Inexpedient to Legislate.**

HB 1763-FN-A, establishing a road usage fee and making an appropriation therefor. **Passed with Amendment.**

HB 1802-FN-LOCAL, relative to the statewide education property tax. **Inexpedient to Legislate.**

SENATE FLOOR ACTION

Wednesday, March 21, 2018

Thursday, March 22, 2018

SB 322, relative to access to a water utility. **Interim Study.**

SB 420, relative to collective bargaining under the right-to-know law. **Passed.**

SB 454, relative to ambient water quality standards and maximum contaminant levels for certain perfluorinated chemicals. **Tabled.**

SB 511, (New Title) establishing an optional tax credit for combat service. **Passed with Amendment.**



2018

Upcoming NHMA Workshops and Webinars

- Apr. 4 NHMA Webinar—Legislative Half-Time
- Apr. 6 Organizational Meeting of NHMA’s Legislative Policy Process, NHMA
- Apr. 9 2018 Local Officials Workshop—Grantham Town Hall
Please register online through our website www.nhmunicipal.org. (Scroll down on left to Calendar of Events and click View the Full Calendar)
- Apr. 11 NHMA Webinar—Nonpublic Sessions and the Right-to-Know Law
- Apr. 16 2018 Local Officials Workshop—Peterborough Community Center
Please register online through our website www.nhmunicipal.org. (Scroll down on left to Calendar of Events and click View the Full Calendar)

