NHMA Bill to Full Senate

The Senate Public & Municipal Affairs Committee voted 3-2 this week to recommend killing SB 78, the bill that, as introduced, seeks to define the New Hampshire Municipal Association, mandate rules for its board of directors, and impose additional restrictions on its lobbying activities. The recommendation of Inexpedient to Legislate will go to the full Senate next Thursday, February 14.

The two senators who voted against the ITL motion wanted instead to pass an amended version of the bill. The amended version, which we expect will be offered as an alternative to the ITL motion next week, would delete almost all of the original bill and instead make a simple amendment to RSA 31:8-a. That statute currently reads as follows:

31:8-a Authorization to Pay Dues. – The board of selectmen may vote to pay, from amounts appropriated by the town for town officers’ expenses, such amounts as shall be payable for annual membership in the New Hampshire Municipal Association and expenses incurred in attending regular meetings of the said association, provided that the appropriation of such dues has not previously been rejected by a vote at the annual town meeting and provided further that the association shall not record association positions before the general court or committees thereof on matters which do not directly affect New Hampshire towns and cities, nor engage in partisan political activity by endorsing, or otherwise supporting, any political party or candidate.

The proposed amendment would merely delete the words “the New Hampshire Municipal Association” and replace them with “a nonprofit, nonpartisan membership organization of towns and cities,” and replace the word “association” with “organization” in each place it appears. Thus, it would make no substantive change at all to the existing statute, because NHMA already is “a nonprofit, nonpartisan membership organization of towns and cities.”
NHMA Bill - continued

That seems harmless enough, but if the bill would not change anything, what is the point? Further, even if it passes the Senate in this seemingly harmless form, it could be further amended in the House, and there is no telling how it would end.

SB 78 is obviously not needed, and its existence in any form is an objectionable intrusion into municipal authority. Please urge your senator to vote to kill SB 78 next week.

Senate to Hear Bill on Burning Lumber at Transfer Stations

The Senate Energy & Natural Resources Committee will hear testimony next week on SB 31, an NHMA policy bill that would make permanent the exemption that allows municipal transfer stations to burn incidental amounts of untreated waste lumber.

In 2007 the legislature enacted a ban on the combustion of the wood component of construction and demolition debris. This was in reaction to concerns about commercial enterprises burning large amounts of treated lumber, because of the lead, mercury, and other pollutants released by the combustion. However, the ban as enacted includes all C&D lumber, including untreated wood, wherever it is burned. This could apply even to the small amounts of untreated wood that are burned on the “burn piles” at municipal transfer stations.

To avoid the expense this would have created for municipalities—they would have to pay to have the lumber disposed of in some other manner—the 2007 legislation included an exception for “the incidental combustion, under the supervision of a solid waste facility operator, of untreated wood at any municipal transfer station.” That exception was originally scheduled to expire on January 1, 2011, but it was later extended to January 1, 2014. Thus, if no further action is taken, the transfer station exemption will expire at the end of this year.

We understand that the original reason for not making the exemption permanent was a concern about a potential constitutional challenge to the statute by out-of-state C&D combustion companies based on Commerce Clause arguments—a little complex for this publication. In any event, that challenge was indeed made, and the state prevailed, so we understand that this concern no longer exists.

In other words, it is now time to make the municipal exemption permanent, and SB 31 would do that. We do not anticipate any opposition to this bill, but if this issue is important to your municipality, please let your senator know about it. The hearing is scheduled for Wednesday, February 13, at 9:00 a.m., in LOB Room 101.
Bill Would Change Meals and Rooms Tax Distribution Formula

SB 121 proposes to change the formula used in the meals and rooms tax distribution to municipalities. Under current law, the formula is based solely on population—that is, each municipality’s population as a percentage of the total state population, based on the latest resident population figures provided by the Office of Energy and Planning. The new formula would apportion 44 percent of the total amount to be distributed (currently $58.8 million) based upon the proportion of meals and rooms tax revenue collected in each municipality, with the remaining 56 percent distributed based upon population. It is our understanding that the Department of Revenue Administration does not have, and/or cannot release under its confidentiality statutes, data necessary to compute the impact this proposed change would have on each municipality. NHMA is taking no position on this bill. The hearing on SB 121 is scheduled before the Senate Ways and Means committee on Tuesday, February 12, at 9:15 a.m. in State House Room 103.

Retirement Bills

On Wednesday of this week, the Senate Executive Departments and Administration committee heard testimony on SB 132, dealing with part-time employment of New Hampshire Retirement System (NHRS) retirees. This bill removes the current limitation of “32 hours in each normal calendar week,” and replaces it with 1,600 hours in a calendar year, which averages out to approximately 30 hours per week. That change would provide greater flexibility in terms of week-to-week scheduling demands. While NHMA and representatives of schools boards and counties supported the bill, representatives of labor opposed the bill, stating that part-time employment of retirees increases the unfunded liabilities of the NHRS, a fact not supported by the fiscal note on this bill.

Several other retirement bills have hearings next week:

HB 342, another bill dealing with part-time employment of retirees, is scheduled for a hearing before the House Executive Departments and Administration committee on Thursday, February 14, at 1:15 p.m., in LOB Room 306. This bill changes the number of hours a retiree can work in a part-time position from 32 to 24 in a normal calendar week. It also requires that if a retiree works more than 24 hours but fewer than the number of hours required for active membership participation in the NHRS, then the employer will pay the unfunded liability portion of the NHRS employer contribution rate on the amount of compensation paid to that retiree. Finally, the bill requires that employers provide written notice of the rules on hourly limitations to a prospective employee who is a retired member of the NHRS.

HB 364, another bill requiring employers to notify prospective part-time employees of the limitations on part-time employment, is scheduled for a hearing on Tuesday, February 12, at 11:00 a.m., in LOB Room 306, again before the House Executive Departments and Administration Committee.
Retirement Bills - continued

If you have concerns about the part-time employment of NHRS retirees, please contact members of the Senate Executive Departments and Administration committee and express support for SB 132, and contact members of the House Executive Departments and Administration committee in opposition to HB 342 and HB 364.

Finally, HB 620 proposes to have both the employers’ and employees’ retirement contribution rates adjusted to share equally in any changes (increases or decreases) in the unfunded accrued liability as determined after each NHRS actuarial valuation. This bill is scheduled for a hearing before the House Executive Departments and Administration committee on Thursday, February 14 at 2:00 p.m., in LOB Room 306.

Members Support Restored Funding for Environmental Grants

On Thursday over 30 municipal officials and other supporters assembled at the House Finance Committee to testify in support of HB 623, an NHMA policy bill that seeks to restore funding for the environmental state aid grant (SAG) program. This advocacy effort paid off as the chairman of Division I (which handles DES’s budget) indicated in his brief testimony to the full committee that funding for the SAG program would be a “top priority” for his division.

Historically, the legislature has supported municipal wastewater, public drinking water, and landfill closure projects through the SAG program administered by the New Hampshire Department of Environmental Services. This program allows municipalities to receive state assistance of 20 to 30 percent toward principal and interest payments on eligible and completed water infrastructure projects.

Since October 2008, the legislature has deferred most appropriations to the SAG program, resulting in 127 eligible projects not receiving any funding in fiscal years 2009–2012. Municipalities were left with a heavy burden to pay the state’s proportionate share of these mandated infrastructure improvements. As Jaffrey Selectman Don MacIsaac stated in his testimony, the state’s proportionate share of $6 million owed to the town for its $18 million wastewater treatment plant approved by town voters in 2007 “represents the cost of four new town halls.”

This backlog of municipal projects, affecting 60 municipal and other entities, includes 103 wastewater projects totaling $47.7 million; 16 public water supply projects totaling more than $3.8 million; and eight landfill projects totaling more than $1 million in grant requests. The current list of “delayed and deferred” projects now totals $52.6 million. These numbers differ slightly from previously-reported numbers as a result of DES’s testimony to the committee and represent the most up-to-date financial obligations owed to cities and towns under existing statutory criteria.
Environmental Grants - continued

Municipal officials from Exeter, Manchester, Keene, Dover, Portsmouth, Amherst, Conway, Holderness, Jaffrey, North Conway Water Precinct, and Peterborough all testified in support of HB 623, while officials from Franklin, Newmarket, Tilton and the Lower Bartlett Water Precinct attended but did not testify, and written testimony was offered from Auburn, Franklin, Tilton, and Nashua. Many other organizations and officials offered oral or written testimony in support of the bill. No one opposed it.

Bi-partisan legislative support came from many senators and representatives. NHMA wishes to thank all our members, legislators, and industry, professional, and environmental groups for their support on HB 623.

Most of these infrastructure investments are required by Federal and/or state law, and cities and towns will continue to expend significant monies in the future to comply with regulations under the Federal Clean Water Act and the Safe Drinking Water Act. Several members, including officials from Portsmouth, Exeter, and Dover, discussed the need to maintain this program to offset future costs for new wastewater treatment plants in the Seacoast region to meet new nitrogen discharge limits imposed by the EPA.

Local government officials and citizens alike have long relied on the state’s commitment to this funding partnership, which was created by the Legislature in 1959 to make environmental investments at the local level more affordable. A letter of support from the Auburn Board of Selectman summarizes the issue perfectly: “We certainly understand these have been difficult times we are living in, and all of our public sector agencies, departments and communities have been asked to do more with less. But when local decisions are made based on existing state law and historical precedence, we strongly encourage the Legislature to adhere to the legal and policy decisions it has made and provide funding for those delay and deferred communities.”

Policy Bills Advance in Senate

Four NHMA policy bills will go to the Senate floor next week, all with favorable recommendations. They are:

- **SB 11**, which allows municipalities to establish water resources utility districts and to enter into inter-municipal agreements for the establishment of such districts;

- **SB 49**, which modifies the procedure for appealing planning board decisions to the zoning board of adjustment and the superior court;

- **SB 58**, which allows a municipality holding water works or flood control land in another municipality to enter into a voluntary agreement with the host municipality for payments in lieu of taxes; and
Policy Bills - continued

- SB 64, which changes the public notification requirements for the breaching of a dam or lowering of a water body.

All four bills are on the Senate's consent calendars with 5-0 recommendations for passage.

Understanding the Equalization Process and the Impact on County Taxes — An Informational Session for Municipal, County and State Officials from Cheshire County

The New Hampshire Municipal Association and Cheshire County are offering an informational session for Cheshire County municipal, county, and state officials 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 (DRA) 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. Click here for more information and registration.

Note: This session is limited to municipal, county and state officials from Cheshire County. Similar presentations may be offered in the future for officials from other counties.

New Discussion Group for Supervisors of the Checklist

After the great success of the NH Moderators e-mail discussion group, the New Hampshire Municipal Association (NHMA) has received several requests to set up a similar group for supervisors of the checklist. This will be a simple way for supervisors to communicate with one another by e-mail about matters related to the position.

If you have not received an invitation and would like to join, please contact Erica Johnson at ejohnson@nhlgc.org. We hope you will join the group and find it to be a helpful tool for New Hampshire supervisors of the checklist to discuss issues, ask questions, and share information about any aspect of the position.

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

TUESDAY, FEBRUARY 12

COMMERCE AND CONSUMER AFFAIRS, Room 302, LOB
1:15 p.m. HB 367, relative to the municipal bond bank reserve process.
House Calendar - continued

TUESDAY, FEBRUARY 12

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB
3:00 p.m. HB 673-FN, requiring prosecution of a law enforcement officer for failure to enforce the crime of interference with custody.
3:30 p.m. Continued public hearing on HB 504, relative to official oppression.

ELECTION LAW, Room 308, LOB
10:00 a.m. HB 595-FN, relative to photo identification of voters.

ENVIRONMENT AND AGRICULTURE, Room 303, LOB
1:30 p.m. HB 669-FN-L, relative to nonpayment of property taxes on current use land.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB
10:30 a.m. HB 473-FN, relative to retirement system status for members of the university system police force.
11:00 a.m. HB 364, requiring New Hampshire retirement system employers to notify prospective part-time employees who are retired members of the limitations on part-time employment.

FINANCE, Rooms 210-211, LOB
10:00 a.m. SB 40-FN-L, relative to distribution of education funds for fiscal year 2013.

JUDICIARY, Room 208, LOB
1:30 p.m. HB 610-FN, relative to attorney’s fees and costs in an action against a governmental unit for false arrest.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES
Room 307, LOB
10:15 a.m. HB 350, prohibiting discrimination against the unemployed.
11:00 a.m. HB 357, prohibiting an employer from using credit history in employment decisions.
2:00 p.m. HB 414, relative to privacy in the workplace.
2:05 p.m. HB 379, prohibiting an employer from requiring an employee or prospective employee to disclose his or her social media passwords.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB
10:30 a.m. HB 674-FN-L, relative to state highway aid.

SCIENCE, TECHNOLOGY AND ENERGY, Representatives Hall
10:00 a.m. HB 166, requiring the public utilities commission to make specific findings as to the public need for proposed transmission lines.
10:15 a.m. HB 568, requiring new electric transmission lines in New Hampshire to be buried.
11:00 a.m. HB 569, relative to the placement of all new electric transmission lines in New Hampshire.
2:00 p.m. HB 449, relative to the application process for a certificate for an energy facility.
**House Calendar** - continued

**TRANSPORTATION, Room 203, LOB**
2:00 p.m.  **HB 567**, relative to identification of publicly owned vehicles.

**THURSDAY, FEBRUARY 14**

10:00 a.m.  Governor's budget address to joint session of House and Senate.

**ELECTION LAW, Room 308, LOB**
1:00 p.m.  **HB 600-FN**, relative to voter registration.

**EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB**
1:15 p.m.  **HB 342-FN**, relative to part-time employment of retired members of the retirement system.
2:00 p.m.  **HB 620-FN-L**, relative to the adjustment of member and employer contribution rates in the retirement system.

**TUESDAY, FEBRUARY 19**

**FINANCE JOINT WITH SENATE FINANCE, Rooms 210-211, LOB**
10:00 a.m.  Governor's budget presentation.

**LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 307, LOB**
11:00 a.m.  **HB 501-FN**, relative to the minimum wage.
2:15 p.m.  **HB 591**, relative to an abusive work environment and the health and safety of public employees.

**PUBLIC WORKS AND HIGHWAYS, Room 201, LOB**
10:00 a.m.  **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.
10:15 a.m.  **HB 437-FN-A**, relative to the road toll.  **NHMA Policy**.
10:30 a.m.  **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.  **Includes NHMA Policy**.

**SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB**
11:00 a.m.  **HB 517**, relative to the incidental combustion of untreated wood at certain municipal transfer stations.  **NHMA Policy**.

**Representatives Hall**
2:30 p.m.  **HB 484-FN-L**, requiring public approval prior to issuance of certain site evaluation certificates.

**THURSDAY, FEBRUARY 21**

**WAYS AND MEANS, Room 202, LOB**
10:00 a.m.  **HB 662-FN**, requiring the department of revenue administration to collect and make available data on the amount of meals and rooms tax revenue generated in each municipality.
SENATE CALENDAR

TUESDAY, FEBRUARY 12

FINANCE, Room 103, SH
1:15 p.m. SB 192-FN-L, establishing a state infrastructure bank.

JUDICIARY, Room 100, SH
10:15 a.m. SB 108, relative to the liability of landowners who permit use of their land for recreational activities.

WAYS AND MEANS, Room 103, SH
9:00 a.m. SB 128-FN-L, relative to fees for vital records.
9:15 a.m. SB 121-FN-L, relative to the distribution formula for meals and rooms tax revenue.

WEDNESDAY, FEBRUARY 13

ENERGY AND NATURAL RESOURCES, Room 101, LOB
9:00 a.m. SB 31, relative to a ban on the incidental combustion of untreated wood at municipal transfer stations. NHMA Policy.
9:45 a.m. SB 123-FN-L, relative to the use of proceeds from the regional greenhouse gas initiative program.
10:00 a.m. SB 131-FN-L, relative to a permitting process for the removal of submerged logs from certain great ponds.

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB
9:00 a.m. SB 172-FN-L, relative to public funds.
9:15 a.m. SB 102, relative to the selection of members of the conservation commission.
9:30 a.m. SB 111, permitting municipalities to establish a capital reserve plan for expenditure of capital reserve funds.

NEW BILLS

House

HB 610 provides that a governmental unit held liable for damages for false arrest shall also be liable for reasonable attorney’s fees and court costs incurred by the plaintiff. Rep. Itse of Fremont; JUD-H.

HB 641-FN-LOCAL increases the penalty for failure to license a dog. Rep. Cebrowski of Bedford; M&CG.

HB 655-FN requires that the amount of property taxes due pursuant to an elderly or disabled tax deferral be paid to the municipality upon sale of the property. Rep. Daniels of Milford; M&CG.

HB 662-FN requires the department of revenue administration to collect and make available data on the amount of meals and rooms tax revenue generated each month in each municipality. Rep. Cushing of Hampton; W&M-H.
New Bills - continued

HB 665-FN-A-LOCAL allows the construction and operation of 2 destination casinos in the state, with establishment of a casino in any municipality contingent upon approval by the voters. Portions of the proceeds would be paid to the municipality and to the state highway fund. Rep. Gionet of Lincoln; W&M-H.

HB 667-FN-A establishes a temporary surcharge to the road toll to be dedicated to funding the state 10-year transportation improvement plan for rural and town roads. Rep. Khan of Seabrook; PW.

HB 669-FN-LOCAL provides that the nonpayment of property taxes on land assessed under current use within 120 days of the due date shall result in the property's being deemed to have changed in use and assessed the land use change tax. Rep. Hansen of Amherst; M&CG.

HB 672-FN requires that the property tax exemption for water and air pollution control facilities shall apply only to the net book value of the facility or portion thereof. Rep. Walz of Bow; M&CG. NHMA Policy.

HB 673-FN establishes the crime of failure to enforce the law prohibiting interference with custody. Rep. Olinyn of Hampstead; CJ&PS.

HB 674-FN-LOCAL modifies the formula for the computation of state highway aid. Rep. Campbell of Nashua; PW.

HB 675-FN authorizes and regulates the use of license plate scanning devices by law enforcement officers. Rep. Shurtleff of Concord; CJ&PS.

HB 678-FN-A-LOCAL authorizes and regulates video gaming. Establishment of a video gaming facility in any municipality would be subject to approval of the voters, and a portion of the net proceeds from the facility would be paid to the municipality. Rep. Vaillancourt of Manchester; ED&A-H.

Senate

SB 163 establishes a commission to recommend legislation to prepare for projected sea level rise and other coastal hazards. Sen. Watters of Dover; ENR.

SB 164 authorizes coastal management provisions in master plans, which may address planning needs and property loss resulting from projected coastal risks due to increased frequency of storm surge, flooding, and inundation. Sen. Watters of Dover; ENR.

SB 167 deletes large groundwater withdrawals as an exception to the authority of municipalities to enact local ordinances and regulations affecting groundwater. Sen. Reagan of Deerfield; ENR.
Senate Bills - continued

SB 168-FN-A-LOCAL appropriates funds to the department of environmental services for the purpose of funding state aid grant programs for water pollution control and public water systems. Sen. Sanborn of Bedford; F-S. NHMA Policy.

SB 172-FN-LOCAL modifies the investment options of the state treasurer and the treasurers of the political subdivisions of the state. Sen. Forrester of Meredith; PMA.

SB 179 clarifies the definition of “renewable generation facility” for purposes of payments in lieu of property tax payments. Sen. Larsen of Concord; W&M-S.

SB 182-FN changes the effective date of changes to voter identification requirements from September 1, 2013 to September 1, 2014. Sen. Prescott; PMA.

SB 183-FN repeals changes to laws requiring photo identification of voters scheduled to take effect September 1, 2013, and modifies various provisions relating to proving identity to obtain a ballot, obtaining a voter identification card, and penalties for voter fraud. Sen. Pierce of Hanover; PMA.

SB 185 establishes a commission on housing policy and regulation to identify and reduce legislative and administrative barriers to the creation of affordable housing. Sen. Odell of Lempster; PMA.

SB 188 defines “municipally-owned utility” for purposes of relocating underground utilities facilities as necessitated by certain highway projects. Sen. Gilmour of Hollis; ENR.

SB 192-FN-LOCAL establishes a state infrastructure bank. Sen. Carson of Londonderry; F-S.

FLOOR ACTION

Wednesday, February 6, 2013

HOUSE

CACR 1, relating to taxation. Providing that a 3/5 vote is required to pass legislation imposing new or increased taxes or license fees, or to authorize the issuance of state bonds and providing that the general court shall appropriate funds for payment of interest and installments or principal of all state bonds. Inexpedient to Legislate.

CACR 2, relating to taxation. Providing that taxes imposed by the state of New Hampshire or its subdivisions may be graduated. Inexpedient to Legislate.
Floor Action - continued

HB 123, relative to the limitation of liability for negligence regarding firefighters. **Ought to Pass with Amendment.**

HB 144, prohibiting the state, counties, towns, and cities from implementing programs of, expending money for, receiving funding from, or contracting with the International Council for Local Environmental Initiatives. **Inexpedient to Legislate.**

HB 147-FN, establishing a formula for reimbursing municipalities for assessment expenses. **Ought to Pass with Amendment.**

HB 176, allowing towns and cities to grant a part year veterans credit during the year of acquisition of property. **Inexpedient to Legislate.**

HB 181, repealing the equalization standards board. **Ought to Pass.**

HB 191, relative to conformity of governmental land uses to land use regulations. **Inexpedient to Legislate.**

HB 193, relative to registration of vehicles by residents without a permanent street address. **Ought to Pass.**

HB 194, relative to collection of permit fees paid with insufficient fund checks. **Ought to Pass.**

HB 252, consolidating the property appraisal division and the municipal services division of the department of revenue administration. **Ought to Pass with Amendment; referred to Finance.**
2013 Moderators Workshops

SB 2 Meeting
Saturday, January 19
(Snow date: Saturday, January 26)

Traditional Town Meeting
Saturday, February 23
(Snow date: Saturday, March 2)

9 a.m. – 12:30 p.m. • Local Government Center, Concord, NH
Cost: $40

Registration and continental breakfast begin at 8:30 a.m. Attendees will receive a copy of NHMA’s 2013 edition Town Meeting and School Meeting Handbook.

Topics include:

The Basic Law of Town, Village District and School District Meeting
Statutes governing the moderator’s duties at town, village district and school district meetings will be discussed along with issues related to warrant articles, the operating budget, secret ballot voting and other town meeting issues. This topic will be offered in two concurrent sessions tailored for new and experienced moderators. Ample time will be devoted to questions and answers.

Strategies for Running a Smooth Meeting
Moderators are faced with a challenging task: keeping meetings focused and fair to all participants, while effectively facilitating the flow of debate. This session will highlight suggested strategies for running respectful and efficient meetings.

Sample Scenarios
A series of sample scenarios will help attendees prepare for a wide range of meeting challenges.

Presenters:
Barrett M. Christina, Staff Attorney, New Hampshire School Boards Association
C. Christine Fillmore, Staff Attorney, New Hampshire Municipal Association
Paul G. Sanderson, Staff Attorney, New Hampshire Municipal Association

Register online today at www.nhlgc.org/moderators

Space is limited. Questions? Call 800.852.3358, ext. 3350 or email registrations@nhlgc.org.