

# LEGISLATIVE BULLETIN

Bulletin 11 — 2019 Session  
March 8, 2019

## The Most Wonderful Time of the Year

Yes, it's town meeting season! We're sure no one reading this needs to be reminded that next Tuesday, March 12, is town meeting day. In recognition of the event, and to accommodate its many members who serve as local officials, the House of Representatives is closed for business on Tuesday. The Senate, however, does have hearings and committee meetings scheduled for that day.

A majority of New Hampshire towns will hold the first session of their town meeting on Tuesday and the second session later in the week or the following week. The approximately one-third of towns that have adopted the official ballot referendum (SB 2) form will hold their *second* session on Tuesday. And a few towns will hold their *single*-session meeting on Tuesday. Whatever format your town follows, we wish you a successful and productive meeting. It may help that the weather forecast, at least as of this writing, is for a sunny day from beginning to end.

Nor have we forgotten those towns that have their meetings in April or May—so let us take this opportunity for an early expression of best wishes for your meetings as well!

## House Hearings on Biennial State Budget

The House Finance Committee has scheduled three public hearings on [HB 1](#), the governor's proposed state operating budget for the period July 1, 2019 – June 30, 2021, and [HB 2](#), known as the trailer bill, which contains the statutory changes necessary to implement the biennial budget. We reported in [Bulletin #8](#) a summary of the municipal items included and excluded from the governor's proposed budget. The most notable of these are the continued suspension of funding for revenue sharing ([HB 2](#), section 43), suspension of the meals and rooms tax catch-up formula ([HB 2](#), section 37), and continuation of the moratorium on funding state aid grants for wastewater projects ([HB 2](#), section 44; see related SAG

### INSIDE THIS ISSUE

State Aid Grants	2
To-Do List	2
Planning Board Consultants	3
Local Occupancy Fee	4
Health Facilities Licensing	4
Utility Valuation	5
Town Meeting Postponement	5
Solid Waste Reduction	6
Transportation Improvements	6
Calendars, New House Bill	7
House Floor Action	7
Senate Floor Action	9
NHMA Events	10

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article regarding **HB 352** and **SB 254**). Public hearings on the proposed biennial budget are scheduled to be held as follows:

- **Monday, March 11 at 5:00 p.m.**, Lakes Region Community College – Laconia
- **Monday, March 11 at 5:00 p.m.**, Boys and Girls Club of Souhegan Valley – Milford
- **Monday, March 18 at 1:00 p.m.**, Representatives’ Hall, State House – Concord

In lieu of or in addition to oral testimony, written testimony may be submitted at these public hearings or emailed to the [House Finance Committee members](#). Additionally, NHMA is happy to submit your testimony along with our written testimony at the public hearing on March 18. Please remember to send NHMA a copy of any testimony or comments you offer at the public hearings, and contact us at [governmentsaffairs@nhmunicipal.org](mailto:governmentsaffairs@nhmunicipal.org) with any questions about **HB 1/ HB 2**, the budget process, or legislative life in general!

### **SAG for Wastewater Projects**

As we reported in [Bulletin #5](#) at the end of January, Division I of the House Finance Committee recommended retaining **HB 352**. This is an **NHMA policy bill** that appropriates funds for 70 completed, or substantially completed, wastewater projects in 35 municipalities that would be eligible for state aid grants (SAG) under [RSA 486:1](#) but for the moratorium on funding that has been in place since 2012. The recommendation to retain the bill was based on division members’ desire to see how funding for these projects would be handled in the governor’s budget proposal, which was released on February 14. The governor’s proposed budget did not include funding for these projects, and it continued the moratorium on funding any new SAG projects through the upcoming biennium, which ends June 30, 2021.

Next **Wednesday, March 13, at 10:00 a.m. in LOB Room 210**, the House Finance Committee has scheduled an executive session to vote on Division I’s recommendation to retain **HB 352**. Many committee members have expressed concerns about bills like **HB 352** that keep coming up every few years with yet another list of wastewater projects to be funded. The best way to address these concerns is by funding the projects in **HB 352** and lifting the SAG moratorium, which appears in section 44 of [HB 2](#), the budget trailer bill. This will allow the state aid grant program to be administered as intended in RSA 486 with funding appropriated through the Department of Environmental

#### **This week’s to-do list:**

- ✓ Submit your testimony on the state budget and/or attend one of the three regional hearings.
- ✓ Ask House Finance Committee members to support state aid grants (**HB 352** and **HB 2**).
- ✓ Ask Senate Election Law and Municipal Affairs Committee members to oppose **SB 152**, regarding planning board consultants, and/or attend the hearing on Wednesday.
- ✓ Encourage House Ways and Means Committee members to support the local option hotel occupancy fee (**HB 641**).
- ✓ Attend the hearing on **SB 97**, relative to health facilities licensing, and ask Executive Departments and Administration Committee members, and your own senator, to oppose it.
- ✓ Review the amended version of **HB 700** (utility valuation) to try to determine how it will affect your municipality.
- ✓ Let us know your thoughts about the solid waste reporting requirements under **SB 79**.
- ✓ Have a good town meeting!

*(SAG for Wastewater Projects— Continued from Page 2)*

Services' biennial budget process. The executive session next Wednesday is an important opportunity for House Finance Committee members to support funding for these projects in the House budget and ending the moratorium on state funding for wastewater projects.

[Municipalities on the list](#) to receive funding under **HB 352** are asked to contact [House Finance Committee members](#) to urge their support for funding these projects and eliminating the SAG moratorium.

### **The SAG Saga Continues...in the Senate**

On Thursday the Senate passed for a second time (three weeks ago on recommendation by the Energy and Natural Resources Committee, and now on recommendation by the Finance Committee) **SB 254**, an NHMA policy bill that is identical to **HB 352** (see article above). **SB 254** passed **unanimously on a roll call vote**. On behalf of all our members, we thank each senator for supporting state aid grant funding of municipal wastewater projects throughout the state. [Municipalities on the list](#) to receive funding under **SB 254**, please be sure to **thank your senator, too!**

### **Inspections by Planning Board Consultants**

A Senate committee will hear a bill next week that would cause significant problems for planning boards seeking to ensure compliance with conditions of a project's approval. Under [existing law](#), when a planning board approves an application, it may require inspection of the project by a third-party consultant during the construction process, and the applicant is liable for reimbursement of the consultant's fees. **SB 152** would amend that law to state that if a planning board requires third-party inspection during the construction process, it must first develop a scope for the project inspection and solicit proposals from three or more qualified firms, then select "the lowest bidder that meets the requirements outlined in the request for proposal."

We understand that the impetus for this bill is that some consultants allegedly take advantage of applicants by spending far more time than necessary monitoring and inspecting construction projects, and because the municipality is not ultimately paying for it, it has no incentive to control the fees. That is a legitimate complaint, but the remedy here is excessive.

Most planning boards have a working relationship with an engineering firm that understands the municipality's needs. Most municipalities also review that relationship from time to time and make changes if appropriate. To require a planning board to solicit bids *every time* it has a project that requires inspection would seriously disrupt the board's processes and lead to delays that would be in no one's interest. It is likely that in many cases, the board would not find three firms interested in bidding on the project; and the requirement that the lowest bidder be selected in all cases would hardly ensure quality construction.

The law already limits the applicant's obligation to expenses "reasonably incurred." There may be a way to provide better assurance of reasonableness, but **SB 152** goes too far.

*(Planning Board Consultants— Continued from Page 3)*

The hearing is scheduled for **Wednesday, March 13, at 10:00 a.m., in LOB Room 102**, before the [Election Law and Municipal Affairs Committee](#). If you are concerned about how **SB 152** would affect planning board review in your municipality, please contact members of the committee and your own senator.

## **Local Option Hotel Occupancy Fee**

On Wednesday the House Ways and Means Committee held a hearing on [HB 641](#), an **NHMA policy bill** that authorizes municipalities to collect a local option occupancy fee of up to \$2 per night for hotel room rentals. The House already passed the bill as a policy, but the bill was then sent to the Ways and Means Committee to review any potential impact on state revenues, specifically the 9% meals and rooms tax. As NHMA testified, **HB 641** will have no impact on state revenues. Additionally, the Department of Revenue Administration testified that there is no involvement whatsoever on their part in terms of administering this fee; the collection process will be handled solely by any municipality that adopts this local option revenue source. When questioned about the collection process, officials from municipalities interested in charging the fee indicated that they already have billing and collection procedures in place for other municipal charges and fees, and those procedures can easily accommodate administration of the occupancy fee.

Municipalities interested in collecting a local option hotel occupancy fee to address the service and infrastructure needs associated with tourism and transient populations are encouraged to contact members of the [House Ways and Means Committee](#) and urge support of **HB 641**.

## **Health Facilities Licensing**

The Senate Executive Departments and Administration Committee has a hearing next week on [SB 97](#), the bill that would severely limit the development of urgent care centers and walk-in clinics in rural areas of New Hampshire. While health facilities licensing is not ordinarily a concern for NHMA, this bill creates the potential for increased health insurance costs for municipalities.

As we explained in [Legislative Bulletin #6](#) (page 6), the effect of the bill would be to make it impossible for any health care facility to obtain a license if the facility might compete with a critical access hospital. Federal law defines “critical access hospital”—essentially, it is a small, rural hospital that provides certain essential services; thirteen of New Hampshire’s 26 hospitals are classified as critical access hospitals. **SB 97** would prohibit any new health care facility within a 15-mile radius of a critical access hospital if it would have any impact on *any* services provided by the critical access hospital—not just essential services.

This is of concern to municipalities because the cost of a visit to a stand-alone urgent care center or walk-in clinic is significantly less than the cost of a hospital emergency room visit. As we previously noted, one risk pool that provides coverage to many municipalities in the state indicates that its average cost for a hospital emergency room visit is almost \$2,400, compared to about \$360 for an urgent care center and \$200 for a walk-in clinic.

In a region that does not have access to a walk-in clinic or urgent care center, emergency medical treatment will necessarily be higher overall. Most, but not all, of the critical access hospitals are in the northern part of the state; but because of the way medical premiums are established within a risk pool, *all* members of the pool are affected—some more, some less, but all negatively—when one region has higher costs.

The hearing is scheduled for **Wednesday, March 13, at 10:10 a.m., in LOB Room 101. Please contact members of the [committee](#) and your own senator and ask them to oppose SB 97.**

## Utility Valuation Bill Inches Forward

Don't look now, but there is a light frost in the inferno. Could a full freeze be ahead? A subcommittee of the House Ways and Means Committee met this week to put the final touches on an amendment to **HB 700**, the bill that establishes a formula for the valuation of utility company property. Representatives of public utilities, municipalities, assessors, and the Assessing Standards Board were present, and all agreed with the (nearly) [final draft](#). (Note: the linked draft of the amendment is still titled "HB 700 as introduced," but it does contain the agreed-upon amendment language. It is an unofficial version, still subject to review by the Office of Legislative Services. An official version should be available next week.)

The amendment makes mostly technical changes to the original bill, which was described in [Legislative Bulletin #5](#) (page 1). As we have said several times, we are not assessing experts, so we continue to encourage municipalities to review the bill with their assessors. Those we have talked to have agreed that, although the bill is not everything they could ask for, as it will lead to a loss of valuation in some municipalities, it is a reasonable compromise that should serve to minimize future legal challenges by the utilities.

The subcommittee's recommendation will go to the full committee next **Wednesday, March 13**, and unless there is a last-minute problem—always a possibility (see next article)—we expect the committee to recommend it to the full House for action on **March 20**.

## Town Meeting Postponement Update

Although this year's town meeting day weather forecast may be benign, no one knows what next year will bring—and that is why town officials are eager to see legislation clarifying the moderator's authority to postpone either or both sessions of town meeting. After weeks of work and several subcommittee sessions, the NHMA-supported House bill, **HB 408**, hit a last-minute roadblock this week and, consequently, was retained in the House Election Law Committee.

However, there is still a path forward. The Senate this week heard [SB 104](#), the competing bill that we wrote about in last week's [Legislative Bulletin](#) (page 4). **SB 104** has the right intentions, but its one fatal flaw is that it authorizes postponement only of the "election," and not of the entire official ballot voting session of town meeting. NHMA presented an amendment at the hearing that would fix that problem and make some other small changes to the bill. Discussions about that amendment are ongoing, and we are cautiously optimistic that it will be accepted. We will keep you posted.

## Reporting on Solid Waste Reduction

The Senate Energy and Natural Resources Committee held a hearing this week on [SB 79](#), which would require municipalities to report certain information annually to the Department of Environmental Services (DES), including:

- On a per capita basis, the weight of all solid waste collected by the municipality from its residents for the previous year;
- On a per capita basis, the weight of solid waste generated by residents that was diverted to recycling, composting, or reuse;
- On a per capita basis, the weight of solid waste collected for recycling that was sent to a landfill or incinerator;
- A description of programs, including pay-as-you-throw, that the municipality has implemented or is in the process of developing to achieve source reduction, recycling, reuse, and composting.

The first annual report would be due by November 1, 2019.

NHMA certainly supports solid waste reduction, and it is in every municipality's interest, both environmentally and financially, to reduce the amount of waste it sends to a landfill or incinerator; but we have concerns, which we have expressed to the committee, about whether municipalities have, or can easily obtain, the information requested. Fortunately, representatives of DES expressed similar concerns. That agency is working on an amendment to the bill that would further the bill's goals without placing an undue reporting obligation on municipalities.

We know that different municipalities have different arrangements for collecting and disposing of solid waste—which is why these reporting requirements would be a problem. If you have information you would like to share about how your municipality compiles information on solid waste, and about the ease or difficulty of complying with these requirements, please let us know. But do it *soon*, because the committee needs to report the bill by **Tuesday, March 19**.

## Local Option Funding for Transportation Improvements

On Wednesday the House Municipal and County Government Committee voted 20-0 to recommend Ought to Pass on [HB 409](#), an **NHMA policy bill** that would increase the cap on the local option transportation improvement fee from \$5 to \$10. As we reported in last week's [Bulletin](#), this fee is added to the annual municipal motor vehicle registration fee and is used to fund multi-modal transportation related costs for roads, bridges, sidewalks, bicycle and pedestrian facilities and public transportation services, as approved by the local legislative body. We appreciate the committee's unanimous support of **HB 409**, recognizing this as the quintessential local control bill. **HB 409** is on the consent agenda for the next House session.

## HOUSE CALENDAR

### MONDAY, MARCH 11, 2019

**Boys and Girls Club of Souhegan Valley, 56 Mount Vernon Street, Milford**

5:00 p.m. **HB 1-A**, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2020 and June 30, 2021; **HB 2-FN-A-L**, relative to state fees, funds, revenues, and expenditures.

**Lakes Region Community College, Academic Commons, 379 Belmont Road (Route 106), Laconia**

5:00 p.m. **HB 1-A**, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2020 and June 30, 2021; **HB 2-FN-A-L**, relative to state fees, funds, revenues, and expenditures.

**NEW HAMPSHIRE DRINKING WATER AND GROUNDWATER ADVISORY COMMISSION (RSA 485-F:4), Rooms 301-303, LOB**

10:00 a.m. Regular meeting.

### MONDAY, MARCH 18, 2019

**FINANCE, Representatives Hall, SH**

1:00 p.m. **HB 1-A**, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2020 and June 30, 2021.  
**HB 2-FN-A**, relative to state fees, funds, revenues, and expenditures.

## SENATE CALENDAR

### WEDNESDAY, MARCH 13, 2019

**ELECTION LAW AND MUNICIPAL AFFAIRS, Room 102, LOB**

10:00 a.m. **SB 152**, relative to third party inspections conducted pursuant to a planning board approval.

**EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 101, LOB**

9:00 a.m. **SB 49**, relative to the state fire code.

9:30 a.m. **SB 113**, relative to municipal authority regarding the state building code.

10:10 a.m. **SB 97**, relative to licensure of health facilities near a critical access hospital.

## New 2019 House Bill

**HB 2-FN-A** makes statutory changes to implement the state budget for fiscal years 2020 and 2021. Rep. Wallner of Concord; **F-H**.

## HOUSE FLOOR ACTION

Thursday, March 7, 2019

**CACR 5**, relating to the right to vote. Providing that 17 year olds who will be eligible to vote in the general election be permitted to vote on that election's primary election. **Tabled.**

*(House Floor Action— Continued from Page 7)*

**CACR 6**, relating to elections. Providing that any inhabitant who so desires may vote by absentee ballot in primary and general elections. **Tabled. NHMA Policy.**

**HB 105-FN**, relative to domicile residency, voter registration, and investigation of voter verification letters. **Passed.**

**HB 106**, relative to the terms “resident,” “inhabitant,” “residence,” and “residency.” **Passed.**

**HB 135**, relative to leased railroad property. **Inexpedient to Legislate.**

**HB 153**, relative to circumstances under which police officer disciplinary records shall be public documents. **Passed with Amendment.**

**HB 154**, prohibiting non-disclosure agreements in certain legal actions against a governmental body. **Passed with Amendment.**

**HB 167**, allowing the town of Kingston to hold a bonfire event in 2019. **Passed with Amendment.**

**HB 203**, relative to options in cable television franchise products. **Inexpedient to Legislate.**

**HB 364**, permitting qualifying patients and designated caregivers to cultivate cannabis for therapeutic use. **Passed with Amendment.**

**HB 367-FN**, establishing a state bank. **Inexpedient to Legislate.**

**HB 403-LOCAL**, authorizing towns to utilize credit unions for town business. **Inexpedient to Legislate.**

**HB 426**, establishing a committee to study allowing town clerks to accept proof of certain exemptions from the rabies vaccine for the purpose of registering dogs. **Inexpedient to Legislate.**

**HB 485-FN**, creating a one-day license for alcoholic beverages served at dinners hosted at farms. **Inexpedient to Legislate.**

**HB 492-FN-LOCAL**, relative to rates for parking meters. **Inexpedient to Legislate.**

**HB 527**, relative to allodial title and violations of the oath of office. **Inexpedient to Legislate.**

**HB 531**, relative to the delivery of absentee ballots cast by elderly or disabled citizens. **Passed with Amendment.**

**HB 556**, allowing municipalities to process absentee ballots prior to election day. **Passed with Amendment.**



*(House Floor Action— Continued from Page 8)*

**HB 593**, relative to updating official voter checklists. **Passed with Amendment.**

**HB 611-FN**, allowing voters to vote by absentee ballot. **Passed.**

**HB 622-FN**, prohibiting collective bargaining agreements that require employees to join or contribute to a labor union. **Inexpedient to Legislate.**

**HB 629-FN-LOCAL**, establishing a state defined contribution retirement plan for state and political subdivision members of the retirement system. **Inexpedient to Legislate.**

## **SENATE FLOOR ACTION**

Thursday, March 7, 2019

**SB 23-L**, relative to a town establishing a minimum age to purchase a product. **Re-referred.**

**SB 44**, relative to election procedures, delivery of ballots, and assents to candidacy. **Passed.**

**SB 47**, relative to inspectors of election. **Inexpedient to Legislate.**

**SB 57-FN**, relative to phasing out and repealing the utility property tax. **Inexpedient to Legislate.**

**SB 77-FN**, relative to costs of care for animals seized in cruelty cases and prohibiting the future ownership of animals in certain animal cruelty cases. **Passed with Amendment.**

**SB 99-FN**, relative to gainful employment and partial disability in workers' compensation. **Passed.**

**SB 163**, relative to permits for operation of solid waste management facilities. **Passed with Amendment.**

**SB 164**, establishing a committee to study the long-term sustainability of the drinking and groundwater trust fund. **Passed with Amendment.**

**SB 221**, establishing a commission to study highway fund revenue for hybrid and electric vehicles. **Passed with Amendment.**

**SB 238-FN**, relative to the registration of motor vehicles owned by veterans. **Passed with Amendment.**

**SB 254-FN-A**, appropriating funds to the department of environmental services for the purpose of funding eligible wastewater projects under the state aid grant program. **Passed. NHMA Policy.**

**SB 265-FN-L**, relative to maintaining stabilization grants at the current level. **Tabled.**

*(Senate Floor Action— Continued from Page 9)*

**SB 280-FN-L**, relative to the cost of an adequate education. **Tabled.**

**SB 285-FN**, establishing a coastal resilience and economic development program. **Passed with Amendment; referred to F-S.**

**SB 309-FN-L**, relative to stabilization grants for education. **Passed with Amendment; referred to F-S.**

**SB 310-FN-A-L**, relative to casino gambling. **Tabled.**

**SB 313-FN**, establishing a citizen’s right-to-know appeals commission and a right-to-know law ombudsman and making an appropriation therefor. **Passed with Amendment.**

2019 NHMA UPCOMING EVENTS FOR MEMBERS	
Mar. 13	Webinar: The Right-to-Know Law and Governmental Meetings
Mar. 20	Webinar: Rethinking Recycling
Mar. 26	Regional Workshop: Right-to-Know Law and Governmental Meetings
Apr. 10	2019 Local Officials Workshop (All day), Rochester
To register for an upcoming event, go to our website: <a href="http://www.nhmunicipal.org">www.nhmunicipal.org</a> and scroll down on the left under CALENDAR OF EVENTS. Click on the green bar <i>View the Full Calendar</i> and go to the workshop or webinar you are interested in. For more information, please call NHMA’s Workshop registration line: (603) 230-3350.	