

LEGISLATIVE BULLETIN

Bulletin 13 — 2019 Session
March 22, 2019

Restoration of Revenue Sharing

As we reported in [Bulletin #8](#), the Governor’s proposed budget continues the suspension of revenue sharing, which provided \$25.2 million to municipalities annually until it was suspended in 2010 and each year thereafter. This week the House Finance Division I committee discussed restoring revenue sharing, with several members noting that the suspension was intended to last only until the state was in a better financial position than it was in 2010, just following the recession. A vote was taken relative to section 120 of [HB 2](#), which is the section of the budget trailer bill that continues the suspension.

While we were told that the 4-3 vote “restores” revenue sharing, there appears to be some confusion as to whether that vote was intended to **remove** the suspension language in section 120 (thereby restoring revenue sharing) or to **retain** the suspension language in the budget trailer bill. Our understanding is that the majority clearly wanted to restore revenue sharing despite confusion over the wording of the motion. This, along with many other budget items, will need to be addressed by next Thursday—the deadline for the three divisions of the House Finance Committee to complete their budget recommendations for presentation to the full Finance Committee the following week.

While we are still far from seeing the final biennial state budget for fiscal years 2020 and 2021, we are encouraged that both the House and the Senate (see [SB 301](#) article in [Bulletin #12](#)) are considering restoring some form of revenue sharing to municipalities as a means to help ease the property tax burden. Here is the [list by municipality](#) of the money provided to each municipality the last time \$25.2 million in revenue sharing was provided—ten years ago. ***Please talk with your representatives about what revenue sharing will mean to your city or town, and urge members of the [House Finance Committee](#) to include restoration of revenue sharing in their recommended biennial budget.***

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Senate to Vote on Expensive Health Facilities Licensing Bill

The Senate Executive Departments and Administration Committee voted 3-2 this week to recommend passage of [SB 97](#), the bill dealing with licensing of health facilities that we first wrote about in [Legislative Bulletin #6](#). As we said then, the bill would make it impossible for a facility, such as a walk-in clinic or an urgent care center, to obtain a license to operate if the facility would compete with a “critical access hospital,” even with respect to non-essential services.

The committee adopted an amendment that makes the bill seem less draconian, but the practical effect appears to be the same. It imposes burdensome requirements on an applicant that will make it all but impossible to open a new facility within 15 miles of a critical access hospital.

The immediate concern for municipalities is the effect on health care costs. Risk pool representatives have indicated that the 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. *Preventing the opening of new facilities will increase health coverage premiums for all municipalities, not just those in the directly affected geographical areas.*

Even the senators who voted for the bill acknowledged that it will limit access to low-cost care and will have an adverse effect on health care costs. The bill will go to the Senate floor next **Wednesday, March 27**. *Please contact your senator before then and ask him or her to vote against SB 97.*

Local Option Occupancy Fee

The House Ways and Means Committee will hold an executive session on **Wednesday, March 27, at 10:00 a.m., in LOB Room 202**, on [HB 641](#), the **NHMA policy bill** that authorizes municipalities to adopt a local option hotel occupancy fee of up to \$2 per night for hotel room rentals. As we reported in [Legislative Bulletin #11](#), the bill already passed the House as a policy, but was sent to the Ways and Means Committee for review of potential impacts on state revenues such as the 9% meals and rooms tax. There is no impact on state revenues, and no administrative responsibilities are imposed on the Department of Revenue Administration. The administration and collection of this local option fee will be at the local level, similar to how other local fees are administered and collected.

Municipalities interested in collecting a local option hotel occupancy fee are encouraged to contact members of the [Ways and Means Committee](#) and urge support of **Ought to Pass on HB 641**.

This week's to-do list

- ✓ Ask your senator to vote **against SB 97** next Wednesday to help keep municipal health care costs down.
- ✓ Talk to your representatives about **revenue sharing**, and ask members of the House Finance Committee to restore it in the state budget.
- ✓ Contact members of the House Ways and Means Committee, and your own representatives, and ask them to support (again) **HB 641**, the bill providing for a local option hotel occupancy fee.
- ✓ Remind your representatives and senator about the advantages of net metering to municipalities and taxpayers, and ask them to continue to support **HB 365** and **SB 159**.
- ✓ Let your senator know about **HB 415**, amending the process for a town to adopt SB 2, and ask him or her to support it when the time comes.
- ✓ Also ask your senator to support **HB 409**, increasing the maximum local option transportation improvement fee, when it gets to the Senate.
- ✓ Rest up for a new flood of hearings in April.

Part-Time Employment for NHRS Retirees

On **Wednesday, March 27, at 10:00, in LOB Room 101**, the Senate Executive Departments and Administration Committee will hear testimony on [HB 418](#), relative to the limitation on part-time employment under the New Hampshire Retirement System. The bill as passed by the House changes the grandfathering provision of the working-after-retirement legislation enacted last year in HB 561 by allowing a retiree to continue being grandfathered when working in a *different* position for the same employer. The law as enacted last year requires a retiree to remain in the *same* position for the same employer in order to be grandfathered (*i.e.*, allowed to work up to 1,664 hours per calendar year instead of being limited to 1,352 hours).

Moderator Authority Takes a Step Forward

On Wednesday the Senate Elections and Municipal Affairs Committee voted unanimously to recommend Ought to Pass with Amendment on [SB 104](#), relative to postponement of town meetings and elections. As we wrote previously in the *Bulletin*, there were bills to address this issue in both the House and the Senate, but the House version was retained. Although [SB 104](#) in its original version caused us concern, we **support SB 104** as amended; through the efforts of many, it represents a compromise, addresses legitimate concerns that have arisen surrounding the postponement issue, and, above all, preserves the moderator's authority. It will go to the full Senate on the consent calendar next week.

Unanimous Vote on Utility Valuation

An almost unheard-of event occurred on the House floor this week: a unanimous vote. Even more remarkable is that it occurred on a subject, utility valuation, that has been extremely contentious for at least the last three years. On a voice vote, with no debate, the House unanimously passed [HB 700](#), which we have been writing about regularly. (Even the bill to designate the red-tailed hawk as the state raptor fell eleven votes short of unanimity.)

It is not over, of course. The bill now must go to the Senate. Our guess is that senators will welcome a solution that all parties have agreed on, and that they will not be inclined to tinker—but one never knows!

Anti-Lobbying Bill to Be Re-Referred

As we wrote in [Bulletin #10](#), [SB 158](#) would prohibit any recipient of a “grant or appropriation of municipal funds” from using the funds to “lobby or attempt to influence legislation, participate in political activity, or contribute funds to any entity engaged in these activities.” While this legislation would clearly prohibit NHMA from performing its legislative functions, many other groups would be dismantled as well. NHMA, along with the majority of those who testified at the hearing, opposed the bill for just this reason, explaining the importance of voluntary membership in organizations that provide municipalities and municipal officials a voice at the legislature. On Wednesday the Senate Elections and Municipal Affairs Committee voted to re-refer [SB 158](#). Assuming the full Senate agrees next week, this means the committee will keep the bill in its possession and study it and make a recommendation for next year.

Net Metering Bills Approved

The House this week passed [HB 365](#), the **NHMA policy bill** that would raise to five megawatts (from one megawatt) the capacity limit for a customer-generator to participate in net energy metering. The bill is similar to one that passed both chambers last year, **SB 446**, but was vetoed by the governor. The Senate voted overwhelmingly to override the veto last summer, but the House override effort fell just a few votes short.

Dozens of municipalities around the state are participating in net metering in one way or another or are pursuing the option, but the existing cap limits their ability to do so. **HB 365** will enable more municipalities to reduce costs and generate income from their own facilities or from leasing land for such facilities to private companies, or to reduce their electric bills—and thus reduce property taxes—by purchasing electricity at discounted rates through a group net metering arrangement. Unlike last year, **HB 365** passed this week by a veto-proof majority of 254-98, far more than the two-thirds required to override a veto. We hope the governor will take note of the lopsided vote and sign the bill if it gets to his desk. But in case he does not, please continue to remind your representatives about this bill's importance to your municipality. The bill goes next to the Senate.

Meanwhile, the Senate Energy and Natural Resources Committee unanimously recommended passage of a nearly identical bill, [SB 159](#). It will be on the Senate's consent calendar next week, and is expected to pass easily. At this point there are minor differences between **HB 365** and **SB 159**. It is likely that those differences will be reconciled and one bill will become the vehicle for the policy, while the other will be kept on standby. *Please encourage your representatives and your senator to support **HB 365** and **SB 159**.*

Solid Waste Reporting

We wrote in [Legislative Bulletin #11](#) about [SB 79](#), which would require municipalities to report annually to the Department of Environmental Services certain information on solid waste reduction and recycling. Both NHMA and DES expressed concern that municipalities did not have, and could not easily obtain, some of the information the bill would require. The Senate Energy and Natural Resources Committee approved [an amendment](#) this week that, we think, addresses those concerns, and reported the bill as Ought to Pass with Amendment.

The bill is on the Senate calendar for action next week. If any municipalities have concerns about the bill as amended, please let us know.

House Approves Change to SB 2 Adoption

By a division vote of 235-122, the House passed [HB 415](#), the **NHMA policy bill** that changes the manner of adopting the official ballot referendum (SB 2) form of town meeting. Under the bill, the adoption of SB 2 would be debated and voted upon (by secret ballot) at the business session of the town meeting, so that everyone voting on it would have an opportunity to understand the enormous change they are considering. *Please let your senator know about this bill and encourage him or her to support it when it comes to the Senate.* See [Legislative Bulletin #5](#) (page 4) for an explanation of why this bill is an important improvement to the process.

House Passes Transportation Fee Bill

By a division vote of 234-103, the House on Wednesday passed [HB 409](#), the NHMA policy bill that raises from \$5 to \$10 the cap on the local option transportation improvement fee. The bill now heads to the Senate for consideration. *Please encourage your senator to support HB 409 when it comes to the Senate.*

Anti-Fluoride Bill Tabled

On Wednesday the House tabled [HB 192](#), the bill that would have prohibited any municipality from introducing fluoride into a public water supply. The committee recommendation to pass this bill, which defied all scientific evidence and would have prevented municipalities from honoring the wishes of their own citizens, took us by surprise last week. We understand that the decision to table the bill and prevent this disaster was influenced at least in part by the efforts of some astute local officials, and one mayor in particular. Thank you for your efforts!

In theory, the bill could be removed from the table at any time. However, because yesterday was the last day to act on House bills that did not go to a second committee, taking action on the bill once it is removed from the table would require suspension of the House rules, which takes a two-thirds majority vote. That is extremely unlikely, but we will keep an eye on the bill.

Other House Action

The House took final action this week on a number of other bills that affect municipalities. A summary follows.

Ventriloquists, rope dancers, and bowling alleys. The House **killed** [HB 133](#), which would have repealed most of RSA chapter 286. That statute states that “no showman, tumbler, rope dancer, ventriloquist or other person shall, for pay, exhibit any feats of agility, horsemanship, sleight of hand, rope dancing or feats with cards, or any animals, wax figures, puppets or other show, or promote any public competition, without a license from the selectmen of the town.” It also provides for the licensing of billiard tables, pool tables, and bowling alleys. The statute may seem quaintly archaic, but it is still useful. Some towns—especially those without zoning ordinances—have relied on it to require licensing of various shows and performances that otherwise would go unregulated; and we believe there may be a few municipalities that still license bowling alleys. NHMA opposed the bill.

Notice of changes in assessments. The House **tabled** [HB 144](#), which would have required municipalities to provide property owners with written notice of any changes in assessed value. The committee had recommended passage with an amendment that narrowed the requirement, but it still would have been a significant challenge for municipalities to comply. The House action means the bill is almost certainly dead. NHMA opposed the bill.

Tiny houses. The House **passed** an [amended version of HB 312](#), relative to regulation of tiny houses. The bill as introduced would have required municipalities to allow “tiny houses” in any zoning district where single-family dwellings are allowed, and to make provisions for “tiny homes in group park settings.” There were numerous concerns about the original bill, starting

(Other House Action— Continued from Page 5)

with its inconsistent and unclear terms. The amended version merely creates a legislative committee to study issues associated with state and local permitting of tiny houses. NHMA opposed the bill as introduced, and supports the amended version.

Planning board members serving on other boards. The House ***passed*** [HB 370](#), which gives members of city planning boards the same ability to hold other municipal offices or board positions as members of town planning boards. NHMA supports the bill.

Budget committee membership. The House ***killed*** [HB 423](#), which would have amended the statute regarding membership on a municipal budget committee by making the town governing body representative on the committee a non-voting member. NHMA opposed the bill.

Lawn watering restrictions. The House ***passed*** [HB 443](#), which extends municipal authority to limit lawn watering during a declared drought. Current law allows a municipality to restrict watering of residential lawns only. The bill extends the authority to lawns on commercial properties, with exceptions for athletic fields, golf courses, and grass agricultural fields. NHMA did not take a position on the bill.

Restriction on transferring appropriations. The House ***killed*** [HB 576](#), which would have required a municipal budget committee, on completion of its budgets, to issue an “exceptions report”—a term not used in existing law and not explained in the bill—and would have allowed the budget committee or any citizen to challenge a transfer of appropriations by the selectmen if the transfer “begin[s] or end[s] in a general ledger line level account enumerated in the budget committee exception report.” NHMA opposed the bill.

Definition of “contract” for default budget. The House ***passed*** [HB 618](#), which repeals the 2018 law that inserted a definition of “contract” in RSA 40:13, IX, governing the default budget in official ballot referendum (SB 2) towns. The law enacted last year defines “contracts” as “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 a previous year.” NHMA did not take a position on the bill.

All of the bills passed by the House still have to go to the Senate for consideration.

Calm Now, Storm to Follow

After its marathon session this week, the House has no session next week and very little committee activity. The Senate will meet in session on Wednesday afternoon and all day Thursday, with over 80 bills to dispose of, and therefore will also have relatively light committee activity.

With each chamber acting on so many bills, what follows next is inevitable: several weeks packed with hearings in the month of April. Watch these pages for dates and times.

HOUSE CALENDAR

There are no hearings on bills of municipal interest.

SENATE CALENDAR

TUESDAY, MARCH 26, 2019

ENERGY AND NATURAL RESOURCES, Room 103, SH

10:00 a.m. **HB 281**, relative to flow devices designed to control beaver damming and minimize the risk of flooding behind an existing beaver dam.

TRANSPORTATION, Room 103, LOB

1:00 p.m. **HB 148**, relative to electric bicycles.

WEDNESDAY, MARCH 27, 2019

ELECTION LAW AND MUNICIPAL AFFAIRS, Room 102, LOB

9:00 a.m. **HB 130-L**, relative to property tax relief for totally and permanently disabled veterans.

9:30 a.m. **HB 136**, increasing the maximum period for the zoning board of adjustment to hold a public hearing.

WEDNESDAY, APRIL 3, 2019

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 101, LOB

9:40 a.m. **HB 675-FN**, relative to the purchase of service credit in the state retirement system.

10:00 a.m. **HB 418-FN**, relative to the limitations on part-time employment under the New Hampshire retirement system

HOUSE FLOOR ACTION

Tuesday, March 19, 2019

Wednesday, March 20, 2019

CACR 4, relating to right to govern. Providing that the people of the state may enact local laws that protect health, safety, and welfare. **Inexpedient to Legislate.**

CACR 8, relating to the right to govern. Providing that the people of the state may enact local laws that protect health. **Inexpedient to Legislate.**

HB 110-FN-A, relative to the cost of fiscal analysis of legislation relating to the retirement system. **Passed.**

HB 133-FN, repealing the licensing requirement for open-air shows and repealing the laws related to the keeping of billiard tables. **Inexpedient to Legislate.**

HB 144, relative to changes in property assessments. **Tabled.**

HB 192-FN-LOCAL, abolishing fluoridation in water. **Tabled.**

HB 241-LOCAL, relative to the homestead exemption. **Inexpedient to Legislate.**

HB 261, requiring the commissioner of the department of environmental services to revise rules relative to arsenic contamination in drinking water. **Passed with Amendment.**

HB 293, relative to employee credit privacy. **Passed.**

HB 312, relative to municipal regulation of tiny houses. **Passed with Amendment.**

HB 323, relative to signage advertising liquor or beverages. **Inexpedient to Legislate.**

HB 326, relative to the definition of prime wetland. **Passed with Amendment.**

HB 358, relative to combustion of wood residue at municipal waste combustors. **Passed.**

HB 365, relative to net energy metering limits for customer generators. **Passed with Amendment. NHMA Policy.**

HB 370, relative to membership on city and town planning boards. **Passed.**

HB 409, relative to the maximum optional fee for transportation improvements charged by municipalities when collecting motor vehicle registration fees. **Passed. NHMA Policy.**

HB 411, relative to equalized property valuation used to apportion expenses in cooperative school districts. **Inexpedient to Legislate.**

HB 415, relative to the official ballot referendum form of town meetings. **Passed. NHMA Policy.**

HB 423, relative to budget committee membership. **Inexpedient to Legislate.**

HB 434, relative to removal of a town clerk. **Inexpedient to Legislate.**

HB 443, relative to municipal watering restrictions. **Passed with Amendment.**

HB 454, relative to site evaluation committee criteria for energy facility siting. **Inexpedient to Legislate.**

HB 464, relative to the definitions of solar energy systems and wind-powered energy systems for assessed value of real estate exemptions. **Passed with Amendment.**

HB 466, relative to the capacity of electricity customer generators for eligibility for net energy metering. **Passed.**

HB 468-FN-LOCAL, relative to the inclusion of attendance stipends as earnable compensation in the retirement system. **Passed with Amendment.**

(House Floor Action— Continued from Page 8)

HB 475, establishing a shoreland septic system study commission. **Passed with Amendment.**

HB 494, relative to removal or containment of contaminants from the Coakley Landfill. **Passed.**

HB 495, establishing a commission on drinking water. **Passed with Amendment.**

HB 498-FN, prohibiting OHRV operation on class V ways. **Inexpedient to Legislate.**

HB 499, relative to revenue surpluses in unincorporated towns and unorganized places. **Inexpedient to Legislate.**

HB 539-FN, relating to the provision of technical assistance for municipal implementation of the One4all ballot. **Passed with Amendment.**

HB 560-FN, relative to single-use carryout bags. **Passed with Amendment.**

HB 562, relative to the state building code. **Passed with Amendment. NHMA Policy.**

HB 576, relative to municipal and district budget committees. **Inexpedient to Legislate.**

HB 582-FN, relative to the regional greenhouse gas initiative cap and trade program for controlling carbon dioxide emissions. **Passed with Amendment.**

HB 618-LOCAL, relative to the definition of contracts relative to official ballot default budgets. **Passed.**

HB 663, relative to the definition of agriculture and existing agricultural uses. **Passed with Amendment.**

HB 676-FN-A-LOCAL, repealing the collection of the state education property tax. **Inexpedient to Legislate.**

HB 700, relative to valuation of utility company assets for local property taxation. **Passed with Amendment.**

HB 707, relative to settlement money from actions pertaining to the contamination of groundwater or drinking water. **Passed.**

HB 710-FN, relative to adoption of state building code and fire code amendments. **Passed with Amendment.**

HB 713-FN-LOCAL, (New Title) relative to transportation of pupils. **Passed.**

HB 734-FN-LOCAL, relative to the annual percentage reduction in stabilization grants to school districts. **Inexpedient to Legislate.**

(House Floor Action— Continued from Page 9)

HB 737, establishing a commission to investigate and analyze the environmental and public health impacts relating to releases of perfluorinated chemicals in the air, soil, and groundwater in Merrimack, Bedford and Litchfield. **Passed with Amendment.**

SB 1-FN, relative to family and medical leave. **Passed.**

SENATE FLOOR ACTION

Thursday, March 21, 2019

SB 20, relative to notification requirements for employees, workplace inspections, and the youth employment law. **Passed with Amendment.**

SB 69, relative to short-term rentals. **Re-referred. NHMA Policy.**

SB 285-FN, establishing a coastal resilience and economic development program. **Passed.**

SB 309-FN-L, relative to stabilization grants for education. **Passed.**

2019 NHMA UPCOMING EVENTS FOR MEMBERS	
Mar. 26	Regional Workshop: RTK Law & Governmental Meetings (Derry)
Apr. 3	Regional Workshop: RTK Law & Governmental Meetings (Berlin)
Apr. 10	2019 Local Officials Workshop (All day), Rochester
Apr. 16	2019 Local Officials Workshop (All day), Peterborough
Apr. 17	Webinar: Legislative Half-time
Apr. 24	NHMA/NHMLA Workshop: Exactions and Open Space
Apr. 26	Local Road Regulation + Enforcement: New Hard Road to Travel
To register for an upcoming event, go to our website: www.nhmunicipal.org 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.	