

LEGISLATIVE BULLETIN

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2013 Session

January 25, 2013

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Mandatory Binding Arbitration is Back

After a hiatus of a few years, a bill has again been introduced to require binding arbitration to resolve impasses in public employee collective bargaining negotiations. **HB 178** is scheduled for a hearing before the [House Labor Committee](#) next **Tuesday, January 29, at 10:15 a.m., in LOB Room 307.**

Under the bill, when the parties have bargained to an impasse and a neutral party has made recommendations that are submitted to the legislative body, “[i]f the impasse is not resolved following the action of the legislative body, each party shall submit its last best offer to binding arbitration. The arbitrator shall choose the offer of one of the parties in its entirety and such offer shall become the new agreement and shall be binding on both parties, although still subject to approval of cost items by the legislative body.”

Prior binding arbitration bills have attempted to impose an arbitrator’s decision, including cost items, on the legislative body, resulting in a potential unfunded mandate. This bill eliminates that potential by stating that the new contract is “still subject to approval of cost items by the legislative body.” That’s fine, but it raises other problems. First, most impasses result from cost items, so imposing an arbitrator’s decision with respect to non-cost items won’t resolve the impasse. Second, cost and non-cost items are rarely negotiated in isolation—one side may yield on COLAs in exchange for a concession on working conditions. Imposing a “solution” with respect to non-cost items will therefore inhibit both sides’ ability to negotiate.

NHMA has long opposed mandatory binding arbitration, not only because of the unfunded mandate issue but because it is an unnecessary and costly infringement on the negotiation process. The dispute resolution procedures in current law have been in effect for almost 40 years, and have worked well. When pro-management changes have been proposed in recent years, labor leaders have protested that “the system works well”—there is no need for change. If that is so, there is no need for binding arbitration. This bill will impose a costly additional procedure that, in most cases, will do nothing to resolve the impasse.

Please contact members of the Labor Committee and your own representatives and encourage them to **oppose HB 178.**

Dam Notification Bill Scheduled

A hearing on **SB 64**, an **NHMA policy bill** dealing with notification of the breaching of a dam or lowering of a water body, is scheduled for a hearing before the Senate Energy & Natural Resources Committee on **Wednesday, January 30, at 9:15 a.m.**, in **LOB Room 101**.

The bill would amend an obscure but troubling statute, RSA 482:13, which currently requires the owner of a dam to notify the local governing body before breaching a dam, lowering a water body to repair a dam, or causing a significant lowering of the water level in a pond or lake. Upon receipt of the notice, the governing body must schedule a public informational meeting within 15 days, and must publish notice of the meeting in a newspaper of general circulation at least seven days before the meeting — which means the governing body has only eight days to get the notice published.

In a town where the selectmen meet twice a month — or even once a month — and where the only newspaper of general circulation is a weekly, this presents obvious logistical problems. The bigger issue, however, is that the statute imposes a clear unfunded mandate on municipalities — which is even more objectionable given that the municipality itself has no role in the process other than to host a meeting for the benefit of the dam owner and other interested parties.

SB 64 amends the law to provide that the owner will instead notify the Department of Environmental Services, which will hold the informational meeting. The dam owner would be responsible for publishing notice of the meeting.

If this issue affects your municipality, please contact your senator and members of the [Energy & Natural Resources Committee](#) and urge them to *support SB 64*.

An Act Relative to the New Hampshire Municipal Association

The Senate Public & Municipal Affairs Committee will hear testimony next week on **SB 78**, which purports to establish a board of directors of “not more than 30 elected officials” for the New Hampshire Municipal Association. The bill provides that “sixteen members shall constitute a quorum,” apparently without regard to how many members are actually on the board. The bill also indicates that the Association shall not take legislative positions on matters “which directly affect organizations or entities affiliated with the Association.”

The hearing is scheduled for **Wednesday, January 30, at 10:15 a.m.**, in **LOB Room 102**.

Official Ballot Bills in House

The House Municipal and County Government Committee will hold hearings next **Tuesday, January 29**, on several bills dealing with the official ballot referendum (SB 2) form of town meeting.

At **10:00** the committee will hear [HB 280](#), which would allow an SB 2 town to vote to place limits on the amendment of petitioned warrant articles, either by requiring a two-thirds vote at the deliberative session to amend such an article, or by prohibiting the amendment of any article that contains signatures of 100 voters or 20 percent of the registered voters. It would also allow a town to require the governing body to post the default budget, and an explanation of how it was calculated, in three prominent places.

A hearing is scheduled for **10:45** on [HB 423](#), which would prohibit amendment of any petitioned article in an SB 2 town.

Finally, at **11:15** is a hearing on [HB 460](#), which would authorize the *legislative* body to amend the default budget at the deliberative session, and would prohibit the default budget from exceeding the previous year's operating budget by more than 10 percent.

All of the hearings are in **LOB Room 301**.

Bill Limits Financial Analysis of NHRS Legislative Changes

[HB 341](#) would prohibit the New Hampshire Retirement System from incurring costs for actuarial and other professional assessments (such as legal, accounting, or investment) of the financial impact of proposed legislative changes to the system, including benefit changes. This could result in the legislature's enacting significant changes without knowledge of the short- and long-term financial impact of those changes on NHRS employers, employees, and retirees. **NHMA policy** supports the performance of a complete financial analysis of any alternative plan proposals in order to determine the full impact of legislative changes on employers and employee. **HB 341** is scheduled for a hearing on **Wednesday, January 30, at 10:30 a.m.** before the House Finance Committee in **LOB Room 210**.

Webinar Recording Available

If you missed this week's webinar on "Managing the Great Recession: Municipal Finance Trends in New Hampshire" hosted by NHMA and presented by the New Hampshire Center for Public Policy Studies, click [here](#) to access the webinar recording, or [here](#) to access the PowerPoint presentation. The Center's full report on "*Financing NH's Cities and Towns: 2013 Update*," town-by-town data and interactive map are available on their website at www.nhpolicy.org.

HOUSE CALENDAR

Joint House/Senate Meetings Are Listed Under This Section

TUESDAY, JANUARY 29

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

1:30 p.m. **HB 381**, relative to citizen complaints against a police officer.

EDUCATION, Room 207, LOB

10:00 a.m. **HB 269-L**, authorizing a city or town to conduct a special meeting necessitated by changes in adequate education funding.

ELECTION LAW, Room 308, LOB

10:00 a.m. **HB 248**, establishing a committee to study implementation of early processing of absentee ballots at state elections.

10:30 a.m. **HB 277**, relative to the oath required of public officers.

11:00 a.m. **HB 308**, relative to technical changes to election laws.

11:30 a.m. **HB 309**, relative to filing for office.

1:00 p.m. **HB 351**, relative to appointment of inspectors of election.

1:30 p.m. **HB 352**, relative to sending checklists to the state archives.

FINANCE, Rooms 210-211, LOB

2:15 p.m. **HB 341-FN**, relative to the cost of fiscal analysis of legislation relating to the retirement system.

JUDICIARY, Room 208, LOB

10:00 a.m. **HB 311**, establishing a statutory expectation of privacy in personal materials.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 307, LOB

10:15 a.m. **HB 178-FN-L**, relative to binding arbitration in public labor relations disputes. **NHMA Policy to Oppose.**

1:30 p.m. **HB 241-FN**, establishing a state minimum hourly rate.

1:40 p.m. **HB 127-FN-L**, relative to the state minimum hourly rate.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

10:00 a.m. **HB 280**, relative to voting requirements in towns that have adopted official ballot voting.

10:45 a.m. **HB 423-L**, relative to amending official ballot warrant articles.

11:15 a.m. **HB 460-L**, relative to amending the default budget in towns that use official ballot voting.

1:30 p.m. **HB 298**, prohibiting the publication of the names of persons granted property tax exemptions, credits, or deferrals.

2:00 p.m. **HB 305**, establishing a committee to study the apportionment formula for cooperative school districts for towns with electric generation facilities.

2:30 p.m. **HB 446**, relative to the amount of the optional property tax credit for service-connected total disability.

House Calendar - continued**RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB**

- 10:45 a.m. **HB 338-FN-L**, relative to the state contribution for water pollution control.
- 1:30 p.m. **HB 295**, requiring criminal background checks for volunteers and employees at youth skill camps.

WEDNESDAY, JANUARY 30**COMMERCE AND CONSUMER AFFAIRS, Room 302, LOB**

- 10:30 a.m. **HB 278**, relative to voluntary installation of fire suppression sprinklers.

ELECTION LAW, Room 308, LOB

- 10:00 a.m. **HB 265**, relative to procedures by absentee voters.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Rooms 305-307, LOB

- 9:30 a.m. **HB 323-FN**, establishing the Franklin Partin right-to-work act.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

- 10:00 a.m. **HB 340-FN-A**, relative to resurfacing a portion of East Conway Road and making an appropriation therefor.

RESOURCES, RECREATION AND DEVELOPMENT, Room 303, LOB**(Please note room change.)**

- 10:15 a.m. **HB 428**, relative to funds for dam maintenance, removal and improvement.
- 10:45 a.m. **HB 393**, relative to effluent limitations with regard to nitrogen and phosphorus.

WAYS AND MEANS, Room 202, LOB

- 10:00 a.m. **HB 318-FN**, relative to collection of the education property tax and establishing a program to rebate certain excess property tax payments of eligible taxpayers.

THURSDAY, JANUARY 31**EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB**

- 11:00 a.m. **HB 312**, restricting the collection of biometric data by state agencies, municipalities, and political subdivisions.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 11:00 a.m. **HB 438**, relative to the appraisal of residences in an industrial or commercial zone.
- 1:15 p.m. **HB 347**, authorizing cottage housing development as an innovative land use control.
- 1:45 p.m. **HB 215-FN-L**, relative to workforce housing and the definition of community.

House Calendar - continued**TUESDAY, FEBRUARY 5****TRANSPORTATION, Room 203, LOB**

- 11:00 a.m. **HB 332-FN-A-L**, relative to antique vessel registration.
 11:30 a.m. **HB 383**, relative to operation of OHRVs on the traveled portion of public highways, where permitted.

FRIDAY, FEBRUARY 8**ASSESSING STANDARDS BOARD (RSA 21-J:14-a), Department of Revenue Administration, 109 Pleasant Street, Concord**

- 9:30 a.m. Regular meeting.

SENATE CALENDAR**TUESDAY, JANUARY 29****TRANSPORTATION, Room 103, LOB**

- 1:30 p.m. **SB 67**, establishing a committee to examine the issue of statutory authority for all terrain vehicles, off highway recreational vehicles, and low speed utility vehicles to access public highways for food, fuel, and lodging.

WEDNESDAY, JANUARY 30**ENERGY AND NATURAL RESOURCES, Room 101, LOB**

- 9:15 a.m. **SB 64**, relative to public informational meetings on dams. **NHMA Policy.**

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

- 9:30 a.m. **SB 79**, relative to an oath of city officers concerning appraisals of taxable property.
 10:00 a.m. **SB 62**, authorizing the placement of a certain sign in the town of Danbury.
 10:15 a.m. **SB 78**, relative to the New Hampshire Municipal Association.

2013 NEW BILLS**House Bills**

HB 305 establishes a committee to study the apportionment formula for cooperative school districts for towns with electric generation facilities. Rep. Grenier of Lempster; **M&CG.**

HB 308 authorizes city and town clerks to provide copies of the checklist, requires printing of sample ballots on tinted paper, and clarifies reporting obligations of political committees. Rep. Fields of Sanbornton; **EL.**

New Bills - continued

[HB 309](#) clarifies requirements for filing as a candidate for office on the last day of the filing period, and requires a primary candidate to declare that he or she is a registered voter. Rep. Fields of Sanbornton; **EL**.

[HB 311](#) establishes a statutory expectation of privacy in personal materials and protects such materials from government intrusion in the absence of a warrant. Rep. Kurk of Weare; **JUD-H**.

[HB 312](#) restricts the collection of biometric data by state and local government agencies and provides a private right of action for the misuse or unlawful collection of biometric data. Rep. Kurk of Weare; **ED&A-H**.

[HB 318-FN](#) transfers the authority to collect the education property tax from the municipalities to the department of revenue administration. Rep. Sapareto of Derby; **W&M-H**.

[HB 320](#) establishes the development bank of New Hampshire to accept deposits of public funds under the control or in the custody of any public official by virtue of office. Rep. Christiansen of Hudson; **COM-H**.

[HB 323-FN](#) prohibits collective bargaining agreements that require employees to join a labor union or pay dues, fees, or assessments to a union. Rep. W. O'Brien of Mont Vernon; **LABOR**.

[HB 330-FN-LOCAL](#) authorizes counties to adopt an income tax administered by the department of revenue administration. Rep. Burrige of Keene; **M&CG**.

[HB 332-FN-A-LOCAL](#) allows one-time registration for private vessels more than 70 years old. Rep. Ahlgren of Wolfeboro; **TRANS-H**.

[HB 338-FN-LOCAL](#) requires the state contribution toward costs from the acquisition and construction of water pollution control facilities by municipalities to be applied against the principal on any bond project funded after fiscal year 2008. Rep. Umberger of Conway; **RR&D**.

[HB 340-FN-A](#) requires the department of transportation to resurface a portion of East Conway Road in the town of Conway. Rep. Buco of Conway; **PW**.

[HB 341-FN](#) requires that the administrative and professional costs of the fiscal analysis of proposed legislation done by the retirement system not be paid from retirement system assets or charged as an expense of administration. Rep. K. Rogers of Concord; **F-H**.

New Bills - continued

[HB 342-FN](#) changes the definition of part-time employment of retired members of the retirement system, requires notice of the rules of such part-time employment to prospective hires, and requires employers to make contributions for unfunded accrued liability if the part-time employee exceeds the hours for part-time service. Rep. D. Sullivan of Manchester; **ED&A-H**.

[HB 347](#) authorizes cottage housing development as an innovative land use control. Rep. Shurtleff of Concord; **M&CG**.

[HB 350](#) prohibits discrimination in hiring by employers based upon an individual's unemployment status. Rep. Copeland of Stratham; **LABOR**.

[HB 351](#) authorizes town and city clerks, rather than political parties, to appoint inspectors of election. Rep. Hoelzel of Raymond; **EL**.

[HB 352](#) extends the deadline for sending copies of the voter checklist to the state archives. Rep. Hoelzel of Raymond; **EL**.

[HB 355](#) establishes a committee to study the feasibility of cities and towns transferring insurance under the Patient Protection and Affordable Care Act. Rep. Renzullo of Hudson; **COM-H**.

[HB 357](#) prohibits employers from using credit history in employment decisions. Rep. Cushing of Hampton; **LABOR**.

[HB 364](#) requires New Hampshire retirement system employers to notify prospective part-time employees who are retired members in the retirement system of the annual limitations on hours for part-time employment. Rep. Copeland of Stratham; **ED&A-H**.

[HB 365](#) allows village districts to join regional planning commissions. Rep. Coffey of New Ipswich; **M&CG**.

[HB 367](#) requires the New Hampshire Municipal Bond Bank to request an appropriation within 10 days after any governmental unit's failure to make a scheduled payment creates a shortfall in a bond reserve fund, and expands the terms under which governmental units may sell their bonds or notes to the New Hampshire Municipal Bond Bank. Rep. A. White of Lebanon; **COM-H**.

[HB 379](#) prohibits an employer from requiring an employee or prospective employee to disclose his or her social media passwords. Rep. P. Sullivan of Manchester; **LABOR**.

[HB 381](#) establishes a procedure for reporting citizen complaints against a police officer and specifies additional penalties for a police officer found guilty of perjury or false swearing. Rep. Sapareto of Derry; **CJ&PS**.

New Bills - continued

[HB 383](#) requires that operators of OHRVs on the traveled portion of public highways, where permitted, shall be licensed to drive or accompanied by a person who is licensed to drive. Rep. Theberge of Berlin; **TRANS-H**.

[HB 389](#) allows a person issued a summons for a misdemeanor or violation to obtain a copy of the police report and any other discoverable material related to the offense. Rep. J. Belanger of Hollis; **CJ&PS**.

[HB 393](#) limits the nitrogen and phosphorus content of fertilizers sold at retail and preempts all local regulation of matters relating to the registration, sale, use, or transportation of fertilizer. Rep. Schroadter of Newmarket; **RR&D**.

[HB 397](#) requires the commissioner of the department of environmental services to add to the priority list for state aid those communities with wastewater and public water supply projects that were eligible for such aid, but unfunded in fiscal years 2012 and 2013, and those projects listed on the draft project lists for fiscal years 2013 and 2014 and the extended portion of the draft project list beyond 2014, on a first-in, first-out basis as such funds become available. Rep. Buco of Conway; **RR&D**.

[HB 412-FN](#) allows candidates to obtain absentee voter applicant information from either the secretary of state or the city or town clerk, and authorizes fees for providing such information. Rep. Cordelli of Tuftonboro; **EL**.

[HB 414](#) prohibits an employer from requiring an employee or prospective employee to disclose his or her social media passwords. Rep. K. Rogers of Concord; **LABOR**.

[HB 422](#) revises the process for the adoption, revision, and amendment of municipal charters. Rep. F. Rice of Hampton; **M&CG. NHMA Policy**.

[HB 423-LOCAL](#) provides that petitioned warrant articles may not be amended in local political subdivisions that have adopted the official ballot referendum form of town meeting. Rep. F. Rice of Hampton; **M&CG**.

[HB 425](#) makes certain village districts eligible to receive bridge aid and highway funds, and requires the bureau of municipal highways to inventory certain roads annually. Rep. Coffey of New Ipswich; **PW**.

[HB 428](#) allows all dam owners, excluding the state, to receive money from the dam maintenance, removal and improvement revolving loan fund. Rep. Suzanne Smith of Hebron; **RR&D**.

[HB 429](#) permits service of writs against certain cities to be made upon the city manager and city clerk. Rep. K. Rogers of Concord; **M&CG**.

New Bills - continued

[HB 436](#) requires a town to choose, at its regular meeting, whether a public library in the town shall be governed by a board of trustees or by the selectmen. Rep. Weyler of Kingston; **M&CG**.

[HB 437-FN-A](#) increases the road toll, contingent upon a 50 cent per gallon decline in the retail sale price of fuel for a consecutive 6-month period. Rep. Weyler of Kingston; **PW**. **NHMA Policy**.

[HB 438](#) provides that buildings and structures in an industrial or commercial zone whose major use is for residential purposes shall be appraised as part of the owner's residence. Rep. Weyler of Kingston; **M&CG**.

[HB 442](#) prohibits a political subdivision from adopting residency restrictions for sexual offenders or offenders against children. Rep. Robertson of Keene; **CJ&PS**.

[HB 445-FN-LOCAL](#) allows state and local government public employers to participate in the state group insurance plans. Rep. Hammond of Peterborough; **ED&A-H**.

[HB 446](#) allows towns and cities to set the optional property tax credit for service-connected total disability at an amount up to either \$2000 or one-half of the total annual property tax bill. Rep. Schroadter of Newmarket; **M&CG**.

[HB 448](#) makes changes to state representative districts in Belknap, Hillsborough, and Merrimack counties. Rep. P. Schmidt of Dover; **EL**.

[HB 449](#) requires the site evaluation committee to consider economic impact and findings and recommendations from local planning boards or governing bodies prior to issuing a certificate for an energy facility. Rep. Ladd of Haverhill; **ST&E**.

[HB 451-FN](#) repeals the prohibition on carrying a concealed pistol or revolver without a license. Rep. Hoell of Bow; **CJ&PS**.

[HB 455](#) establishes a committee to study the use of a cash balance retirement plan for new state employees, and employees of political subdivisions electing to participate. Rep. Kurk of Weare; **ED&A-H**.

[HB 460-LOCAL](#) permits the legislative body of a town that has adopted the official ballot referendum form of town meeting to amend the default budget at the deliberative session, requires the default budget to be reduced by items no longer anticipated by the governing body, and prohibits the default budget from exceeding the previous year's operating budget by more than 10 percent. Rep. Lambert of Litchfield; **M&CG**.

Senate Bills

[SB 43](#) enables towns and cities to appraise certain qualifying historic buildings at a percentage of market value in order to encourage the preservation of the historic buildings. Sen. Boutin of Hooksett; **W&M-S**.

[SB 49](#) modifies the procedure for appealing planning board decisions to the board of adjustment and the superior court. Sen. Boutin of Hooksett; **PMA. NHMA Policy**.

[SB 50](#) provides a minimum vesting period for variances and special exceptions granted by the zoning board of adjustment. Sen. Boutin of Hooksett; **PMA**.

[SB 57](#) approves the project proposed by the Town of Alstead for the lower Warren Brook Restoration project. Sen. Kelly of Keene; **PMA**.

[SB 58](#) 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. Sen. Carson of Londonderry; **PMA. NHMA Policy**.

[SB 62](#) permits the placement of one commercial sign outside a commercially zoned area in the town of Danbury. Sen. Forrester of Meredith; **PMA**.

[SB 64](#) changes the public notification requirements for the breaching of a dam or lowering of a water body. Sen. Woodburn of Dalton; **ENR. NHMA Policy**.

[SB 67](#) establishes a committee to examine the issue of statutory authority for all terrain vehicles, off highway recreational vehicles, and low speed utility vehicles to access public highways for food, fuel, and lodging. Sen. Woodburn of Dalton; **TRANS-S**.

[SB 77](#) establishes a state minimum wage of \$7.25 an hour. Sen. Soucy of Manchester; **COM-S**.

[SB 78](#) attempts to establish a board of directors of the New Hampshire Municipal Association and impose restrictions on the activities of the association. Sen. Soucy of Manchester; **PMA**.

[SB 79](#) requires the mayor, alderman or council, and the assessors of a city to subscribe an oath that all property was appraised in accordance with the state standards. Sen. Sanborn of Bedford; **PMA**.

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.

