

LEGISLATIVE BULLETIN

SB 77 Amendment Would Siphon Dog Fees

Bulletin 19 — 2019 Session
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NHMA has been following closely **SB 77**, which, among other things, clarifies who is responsible for the cost of care of animals seized in animal cruelty cases. Under existing law, municipalities are legally responsible for the cost of care of the animals while the case is ongoing, but may recover some of those costs *if* a court orders the defendant to post a bond after conviction and during the appeal process.

NHMA supported the initial draft of **SB 77** and supports the Senate-passed version of **SB 77**, both of which enhance the ability of municipalities that confiscate animals to receive reimbursement for the costs of caring for the animals. However, an amendment approved this week by the House Environment and Agriculture Committee is alarming.

As initially proposed, the committee amendment would have established a statewide cost-of-care fund for municipalities to access during the pendency of an animal cruelty case. We have seen the expenses in the worst of these cases exceed a million dollars, so municipalities certainly would benefit from access to outside funds. In the original amendment, this cost-of-care fund was paid for by an additional \$0.50 fee added to individual dog license fees and \$2.50 to group license fees. NHMA supported this proposal.

Under a last-minute change, however, the \$0.50 per license allocated to the cost-of-care fund would come directly from the municipal portion of the existing license fee, with no offsetting increase in the fees. Thus, municipalities would lose \$0.50 for every license issued. (The current fee for a spayed or neutered adult dog is \$4.50, of which \$0.50 is remitted to the state for the veterinary laboratory, leaving \$4 for the town. Under the committee amendment, an additional \$0.50 would go to the state, leaving \$3.50 for the town. The committee amendment does not take any money from group licenses.)

The explanation for the change was that there would be “resistance” to increasing license fees to pay for the cost-of-care fund. Perhaps, but taking money away from municipalities is going to meet more resistance. Dog licensing is a state mandate, and the fees have not increased in 30

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years. Had the fees kept up with inflation, the \$4.50 fee would now be \$9.23. *Reducing* the municipal share of the fees at this point is unacceptable. Apart from the loss of municipal revenue, many town clerks are paid from license fees; this amendment amounts to a pay cut for those clerks.

NHMA supports **SB 77**, but this amendment *must* be removed. The bill's prime sponsor and its major supporters all oppose the amendment. The bill goes to the House floor next **Wednesday, May 8**. It is on the consent calendar, but it will be removed and placed on the regular calendar for debate on the floor. A floor amendment will then be offered that removes the offending language. *Please contact your representatives today and urge them to (1) oppose the committee amendment and (2) support the floor amendment. (If the committee amendment passes and the floor amendment fails, we encourage representatives to support a subsequent motion to table or recommit the bill.)*

Retiree COLA Prompts Unfunded Mandate Letter

We reported in the past several Bulletins on **HB 616**, which provides a 1.5 percent cost-of-living adjustment (COLA) to New Hampshire Retirement System (NHRS) retirees who have been retired at least 5 years on July 1, 2019, to be funded by increases in future employer contributions rates over the next 20 years. The estimated cost to local government employers is approximately **\$116 million** over that period.

At the hearing before the Senate Executive Departments and Administration Committee last week, a union representative testified that NHMA's concern based on the unfunded mandate provision of the state constitution was a red herring in light of the Supreme Court's 2012 decision in *Concord v. State of New Hampshire*. In response to that testimony, NHMA provided a letter to the committee explaining the difference between the circumstances of that case and **HB 616**.

On Wednesday the Senate Executive Departments and Administration Committee chair distributed a draft amendment that would provide a one-time \$500 supplemental allowance in fiscal year 2020 to retirees with 20 years of creditable service who have been retired at least 5 years and with an annual pension of \$30,000 or less. The cost of this supplemental allowance would be paid by the state, not by NHRS employers. The amendment also establishes a legislative study committee to review the issue of COLAs and report its findings and any recommendations for proposed legislation by November 1, 2019.

This week's to-do list

- ✓ Urge your representatives to oppose the committee amendment on **SB 77**, the animal cruelty bill, that would take money from municipal dog license fees, and support a subsequent floor amendment.
- ✓ Ask members of the Senate Executive Departments and Administration Committee, and your own senator, to support an amendment to the retiree COLA bill, **HB 616**, to fund the COLAs with state money rather than increased municipal employer rates.
- ✓ Attend one of the three public hearings on the state budget and/or submit your testimony in support of funding municipal priorities.
- ✓ Attend the hearing on **HB 556** or contact members of the Election Law and Municipal Affairs Committee if you are interested in making the processing of absentee ballots more efficient.
- ✓ Order flowers, make your brunch reservation, and/or send a card for Mother's Day, **Sunday, May 12**.

(Retiree COLA— Continued from Page 2)

The committee did not vote on the amendment, allowing time for members to consider this proposal and possibly other COLA/supplemental allowance proposals that may be less costly than **HB 616** and avoid the unfunded mandate issue. We expect the committee to take up **HB 616** at its meeting on May 13.

*Please urge members of the [Senate Executive Departments and Administration Committee](#) to support an amendment to **HB 616** that provides funding for a retiree supplemental allowance from state funds, as has been done in the past, rather than charging property taxpayers for a COLA over the next 20 years!*

New Workers' Compensation Presumption on the Horizon

As originally drafted, [SB 59](#) added “acute stress disorder and post-traumatic stress disorder” to the definition of an “injury” in the workers’ compensation statute and reestablished a commission to study the incidence of these conditions in first responders. We did not oppose the bill, because it is generally recognized that these conditions are already covered, and this was just a clarification.

This week, the House Labor Committee voted to recommend **SB 59** as Ought to Pass, but with a significant [amendment](#): The amendment would also establish a new prima facie presumption that acute stress disorder and PTSD in first responders are work-related. We have concerns due to the potentially significant cost to municipalities of this new presumption, particularly because the PTSD presumption does not have preconditions that must be met, as the existing cancer presumption in the statute does.

One positive note is that, under the amendment, the PTSD presumption has a delayed effective date of January 1, 2021. This was included to give the commission the opportunity to fully consider the impact of this legislation on all affected parties—and whether any legislative changes need to be made—before its implementation. **SB 59** also clarifies some aspects of the workers’ compensation presumption that was amended last year relative to firefighters with heart, lung, or cancer disease.

Public Hearings on State Budget

The Senate Finance committee will hold three public hearings on the state budget next week. The hearings are scheduled as follows:

- **Tuesday, May 7, at 1:00 p.m. in Representatives Hall, State House, Concord**
- **Tuesday, May 7, at 6:00 p.m. in Representatives Hall, State House, Concord**
- **Wednesday, May 8, at 7:00 p.m. in the Aldermanic Chambers, City Hall, Manchester**

[Legislative Bulletin #16](#) provided a summary of the municipal funding in the budget, [HB 1](#) and [HB 2](#) as passed by the House. The Senate Finance Committee now has possession of those bills and will continue deliberations until later this month, at which time the committee

will make recommendations regarding Senate priorities, appropriations, and revenues. Municipal officials are encouraged to testify at the public hearings next week, or submit written testimony addressing concerns and needs specific to your municipality. As always, please let NHMA know of any testimony you plan to offer.

Early Processing of Absentee Ballots

The Senate Election Law and Municipal Affairs Committee has a hearing next week on [HB 556](#), which would allow moderators to begin processing absentee ballots before election day. Under current law, the processing of absentee ballots may not begin until two hours after the polls open on election day. The bill would allow the ballots to be processed (not counted) within the seven-day period before election day. The moderator would be required to post notice of the session at least 48 hours in advance, and citizens would be allowed to observe the process in the same manner as they may on election day. The presence of at least three other election officers, in addition to the moderator, would be required.

There are many polling places that receive several hundred absentee ballots for a state election. Accounting for all ballots, one at a time, is a painstaking process that can easily take several hours. Doing this during the election is a significant disruption—it takes the moderator and clerk away from other duties, and it creates a much greater risk of error as ballot clerks are trying to mark absentee voters on the checklist at the same time they are checking in voters who are voting in person. The alternative—processing the ballots after the polls close—leads to extremely late nights (for workers who often have been there since 6:00 a.m. or earlier) and delayed reporting. **HB 556** gives local election officials a third option that could avoid these problems. To be clear, it is only an option—if a moderator does not choose it, the ballots would be processed at the polls on election day.

The hearing is scheduled for **Wednesday, May 8, at 11:00 a.m., in LOB Room 102**. Moderators and others who are interested in helping to make elections run more efficiently are encouraged to attend the hearing or contact members of the [committee](#).

Solid Waste Reporting Bill Retained

The House Environment and Agriculture Committee this week retained [SB 79](#), the bill that requires municipalities to report annually on the amount of solid waste sent to landfills or incinerators, the amount recycled or otherwise diverted, and efforts to achieve source reduction, reuse, recycling, and composting. NHMA and several municipalities had expressed some concerns about the bill's requirements, as had several committee members, but we suggested an amendment that we thought addressed those concerns. It appears that committee members still had doubts and felt the bill, which has already passed the Senate, needed more work. The committee will study the bill later in the year and issue a recommendation to the full House by November.

Bipartisanship Breaks Out on Redistricting Bill

The Senate Election Law and Municipal Affairs Committee held a hearing this week on [HB 706](#), the **NHMA policy bill** that would create an independent commission to draw legislative districts after each decennial census. In the House, the bill had received a 20-0 Ought to Pass recommendation from the Election Law Committee, but ran into Republican opposition on the floor and passed mostly along party lines, with 202 Democrats and only 16 Republicans voting for it.

Since then, however, legislators from both parties have worked together on an amendment that makes some significant changes to the bill but preserves the basic concept: a 15-person commission comprising five Republicans, five Democrats, and five persons who are neither, none of whom may be current legislators or executive councilors, who will prepare a legislative district map to be approved by the legislature. All meetings of the commission would be open to the public, and members of the public would be permitted to submit maps for consideration. The amendment, like the original bill, establishes criteria for drawing district lines and specifically prohibits the creation of districts that “have the intent or the effect of unduly favoring or disfavoring any political party, incumbent, or candidate for political office.”

That amendment appears to have strong bipartisan support. Legislators from both parties testified in support of the bill, and no one spoke against it. The bill appears to have the support of committee members from both parties. We could not be more pleased with this development.

Still, there is a long way to go. The committee has not voted yet; it is likely to do so next Wednesday. The bill must then go to the full Senate and, if it passes, go back to the House for concurrence or a request for committee of conference. Stay tuned.

Significant Changes to Building and Fire Code Statutes

This legislative session has featured several bills dealing with both the state building code and the state fire code, as well as local codes. Here is a summary status of the bills that are still alive:

- [HB 562](#) updates the definition of the state building code to include the 2015 editions of the component codes, and adds the International Swimming Pool and Spa Code; it also ratifies changes to the state building code made by the Building Code Review Board (BCRB). The House passed the bill, and the Senate Executive Departments and Administration Committee has recommended the bill as Ought to Pass with Amendment. **NHMA Policy.**
- [SB 49](#) updates the state fire code to include the 2015 edition of the Uniform Fire Code NFPA 1. The Senate passed the bill, and the House Executive Departments and Administration Committee voted unanimously this week to recommend Ought to Pass with Amendment. It is on the House’s consent calendar for action next week. **NHMA Policy.**
- [HB 710](#) revises the procedure for amendments to the state building code, requires the BCRB to maintain a publicly accessible list of applicable building codes and amendments (including local code provisions), and exempts amendments to the state fire code that are adopted as emergency rules from rulemaking requirements under RSA 541-A. This bill also

- provides that appeals from the local building code board of appeals (the ZBA in many municipalities) go to the BCRB. The Senate Executive Departments and Administration Committee this week approved an [amendment](#) to the bill requiring that appeals to the BCRB must be made within 30 days of the local appeals board's decision. It is unclear at this point how this affects RSA 677:16, which states that these cases are appealed to the superior court. The committee voted unanimously to recommend Ought to Pass with amendment, and it is on the Senate's consent calendar for May 15.
- [HB 259](#) requires violation notices issued by a code enforcement authority to reference the relevant section of the state or local building or fire code. The House passed the bill in February, and the Senate passed it last week, so it will go next to the governor.
- [HB 303](#) requires persons appointed as the local enforcement agency for inspections and enforcement of the state building code to have certification or show sufficient knowledge of code compliance requirements. The House passed the bill, and a hearing was held in the Senate Election Law and Municipal Affairs Committee on April 10. The committee has not yet made a recommendation.

HOUSE CALENDAR

There are no hearings of municipal interest.

SENATE CALENDAR

TUESDAY, MAY 7, 2019

FINANCE, Representatives' Hall, SH

1:00 p.m. to 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.

6:00 p.m. to 8:00 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.

JUDICIARY, Room 100, SH

9:00 a.m.

HB 481-FN-A-L, relative to the legalization and regulation of cannabis and making appropriations therefor.

WEDNESDAY, MAY 8, 2019

ELECTION LAW AND MUNICIPAL AFFAIRS, Room 102, LOB

10:00 a.m.

HB 384, relative to access to historic burial sites on state-owned land.

10:20 a.m.

HB 635-L, enabling a payment in lieu of taxes for a combined heat and power agricultural facility.

11:00 a.m.

HB 556, allowing municipalities to process absentee ballots prior to election day.

WEDNESDAY, MAY 8, 2019 (Continued)

FINANCE, Manchester City Hall, Aldermanic Chambers, 3rd Floor, 1 City Hall Plaza, Manchester, NH

7:00 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.

THURSDAY, MAY 9, 2019

COMMERCE, Room 102, LOB

9:30 a.m. **HB 186**, establishing a state minimum wage and providing for adjustments to the minimum wage.

HOUSE FLOOR ACTION

Thursday, May 2, 2019

SB 18, relative to authorized employee wage deductions. **Passed with Amendment.**

SB 28, (New Title) relative to an active retirement system member appointment to the independent investment committee. **Passed.**

SB 56, establishing a committee to study motor vehicle registrations of active duty military personnel. **Passed with Amendment; referred to TRANS-H.**

SB 74-FN-A, (New Title) relative to register of deeds fees used to support the land and community heritage investment program (LCHIP) and establishing a committee to study the economic impact of land conservation. **Passed; referred to W&M-H.**

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

SB 151-FN, establishing an administrative hearing procedure and penalty for an employer who fails to make payment of wages or who fails to secure workers' compensation coverage. **Passed.**

SB 221, establishing a commission to study highway fund revenue for hybrid and electric vehicles. **Inexpedient to Legislate.**

SENATE FLOOR ACTION

Thursday, May 2, 2019

HB 116-FN, relative to the job classification of positions in the retirement system. **Passed; referred to F-S.**

HB 130-L, relative to property tax relief for totally and permanently disabled veterans. **Re-referred.**

(Senate Floor Action — Continued from Page 7)

HB 145, relative to the counting of secret ballots. **Inexpedient to Legislate.**

HB 146, relative to the counting of defective ballots. **Passed with Amendment.**

HB 286-L, relative to free inspection of records under the right-to-know law. **Passed with Amendment.**

HB 301-FN-L, relative to funeral and burial or cremation expenses for assisted persons. **Passed.**

HB 312, establishing a committee to study tiny houses. **Passed.**

HB 334-L, relative to disposition of certain municipal records. **Tabled.**

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

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

2019 NHMA UPCOMING EVENTS FOR MEMBERS	
May 8	2019 Local Officials Workshop (All day), Lebanon
May 10	How to Avoid Costly Mistakes! A Wage & Hour Compliance Workshop
May 14	Webinar: Who Not to Hire!
May 21	2019 Local Officials Workshop (All day), Sugar Hill
May 30	NHMA/NHMLA – Managing Public Rights of Ways Workshop
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.	