

LEGISLATIVE BULLETIN

Override Vote on Net Metering Bill

Bulletin 24 — 2019 Session
June 7, 2019

The governor this week vetoed [HB 365](#), the NHMA policy bill that increases the cap for net metering projects to five megawatts. As we mentioned last week, anyone who needs a refresher on the bill can read about it in [Legislative Bulletin #13](#) (page 4). The bill would result in substantial savings for municipalities and taxpayers by enabling them to reduce electrical costs—dramatically in some cases. This is especially important in those cities and towns that are operating under tax caps and need to find savings everywhere they can.

There will likely be a “veto day” later this summer or in the early fall, when both houses meet specifically for the purpose of considering veto overrides; but they do not need to wait for that day on bills that have already been vetoed. It is possible that the veto of [HB 365](#) could be considered on one of the remaining session days this month, even as soon as next **Thursday, June 13**.

We are confident that the override motion will get the necessary two-thirds vote in the Senate, but the House is in question. The House passed the bill by a vote of 254-98 in March—well in excess of a two-thirds majority—but Republican legislators are getting intense pressure from their party leaders to support the governor by sustaining the veto.

Please remind your legislators that they were elected to represent their voters and their municipalities, not to represent a political party. **Ask them to vote YES if and when there is a motion to override the veto on HB 365.** If that vote does not occur this month, we will send more information with a call to action over the summer.

Housing Appeals Board, RTK Ombudsman in Senate Budget

As we have mentioned in prior Bulletins, the Senate Finance Committee included in its proposed state budget the text of [SB 306](#), creating a housing appeals board, and [SB 313](#), establishing a Right-to-Know Law citizens’ commission and ombudsman, after the Senate had passed and immediately tabled both bills. The Senate yesterday adopted that budget (see next article) with those provisions intact.

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We continue to hear concerns from local officials and legislators about both bills, but especially about **SB 306**. We discussed both bills in [Bulletin #6](#) and in [Bulletin #22](#); we explained in the latter Bulletin that our concerns about the housing appeals board bill had been addressed and we did not oppose the bill. We also do not oppose the inclusion of its text in the budget trailer bill, **HB 2**.

However, we understand that many people do oppose it, and we have received numerous questions about how to express these concerns. At this point, with the budget going to a committee of conference, the place to raise objections (or express support) is with House members of the committee of conference. (See article on committees of conference later in this Bulletin.) You can also talk to your own representatives and ask them to pass your comments along to members of the committee of conference—but do it soon, as that committee has less than two weeks to issue its report. The same goes for the provisions on the Right-to-Know Law commission and ombudsman.

Senate Passes Biennial Budget

After a lengthy (10 hours) and contentious debate, the Senate passed **HB 1** and **HB 2**, the biennial state budget and trailer bill, respectively, by a 14 to 9 vote at midnight last night. All 21 floor amendments offered during the debate failed along party lines. Significant disagreements over revenues, spending priorities, and specific programs like family medical leave were the causes for divisiveness. The budget bills now head back to the House, where we expect a request for a committee of conference. That committee will have a deadline of June 20 to reach a budget agreement for each chamber to address on June 27. Here is a brief summary of the municipal highlights in the Senate budget:

- Appropriates \$20 million each year for unrestricted municipal aid ([click here for a list by municipality](#));
- Appropriates \$68.8 million each year in meals and rooms tax distribution;
- Funds 70 wastewater projects substantially completed by December 1, 2019, bringing the state aid grant (SAG) program up to date in state funding;
- Provides approximately \$36 million each year for highway block grants and \$6.8 million each year for municipal bridge aid;
- Appropriates \$6 million to the Department of Environmental Services for studying, investigating, and testing contamination caused by perfluorinated chemicals (PFAS) and for preliminary design of a treatment system for such contamination;
- Appropriates \$400,000 over the biennium to match federal grants for public transit systems;

This week's to-do list

- ✓ Remind your representatives about the importance to municipalities of **HB 365**, the net metering bill, and ask them to vote to override the governor's veto **if** it is brought before the House on June 13.
- ✓ Talk to your representatives if you have concerns about anything that is in the Senate's budget.
- ✓ Check the legislature's website for updates on any committees of conference.
- ✓ Sign up for one or more of NHMA's June-July workshops and

- Appropriates \$1.8 million for demolition of state-owned buildings in Concord, Lebanon, and Conway;
- Continues the Granite Shield Program, which provides \$2.4 million over the biennium to municipal and county law enforcement;
- Appropriates an additional \$95 million in adequate education aid (click here for a [list by municipality](#)).

PFAS Amendment Fails

On Thursday, by a 10-14 vote along party lines, the Senate defeated a floor amendment to **HB 737** that would have required the Department of Environmental Services (DES) to complete a thorough analysis of the costs and benefits associated with stricter drinking water and ground-water quality standards related to perfluorochemicals known as PFAS. We reported in [last week's Bulletin](#) a list of potential costs to municipal water and wastewater operations that DES was not able to estimate when the proposed PFAS standards were released in January. In addition to the cost and benefit analysis, the floor amendment would have established July 1, 2021, as the effective date of new PFAS standards, as opposed to the proposed standards which currently does not indicate an effective date.

One of the primary reasons the floor amendment failed was because several key senators felt that since DES is in the middle of the rulemaking process to set standards for PFAS, that process should be allowed to play out without any interruption that the floor amendment might have caused. The next step in that rulemaking process will be for DES to file its final PFAS proposed rule to the Joint Legislative Committee on Administrative Rules (JLCAR). This final filing is expected to occur before the end of June for consideration at the committee's July 18 meeting, which will afford another opportunity for public comment regarding the proposed PFAS rules.

Constitutional Claims Bill

We have been writing the last few weeks about [SB 36](#), the bill providing that any government entity that deprives a person of constitutional rights will be liable in an action for damages. The bill was tabled two weeks ago, after we urged representatives to either adopt a floor amendment or kill the bill.

In last week's Bulletin we said we expected that **SB 36** would be taken off the table this week, and we continued to encourage representatives to support the floor amendment if that happened. The bill, however, stayed on the table through the end of yesterday's House session, and it will die there. (See article below about what happens to tabled bills.) Although we had no objection to the bill so long as it included the floor amendment, we certainly do not object to this result, either.

Thank you to all the local officials, and all the legislators, who worked to get to an acceptable outcome on this bill.

Municipal Melange

In other action this week . . .

Processing absentee ballots. Despite a 5-0 committee recommendation of Ought to Pass, the Senate re-referred **HB 556**, which would allow moderators to begin processing absentee ballots before election day. We would have liked to see the bill pass to alleviate the election-day burden on election officials, especially given the passage of **HB 611**, which would allow any voter to vote by absentee ballot without satisfying any of the statutory conditions for absentee voting.

Roads to summer cottages. The House passed **SB 53**, amending the statute governing maintenance of highways to summer cottages. Under current law, a town is exempt from keeping open and repairing a road with that designation from December 10 to April 10. Under **SB 53**, a municipality's legislative body may vote to extend the exemption period, so long as the period does not begin earlier than November 15 or end later than April 30. The bill will go next to the governor.

Multi-town bonding. The House passed **SB 103**, which authorizes two or more municipalities (or other "public agencies"), pursuant to an intergovernmental agreement under RSA 53-A, to "jointly issue bonds or notes under RSA 33 for any purpose for which they may be issued under that chapter." The agreement would specify each municipality's proportionate share of the debt represented by the bond, and each participating municipality would have to comply separately with the bond approval process requirements of RSA 33. Because the bill was amended in the House, it must go back to the Senate for concurrence or to request a committee of conference.

Committee of Conference Season Arrives

Yesterday was the deadline for the House and Senate to act on all bills. Any bill that passed both chambers and was not amended in the second chamber is now on its way to the governor after a short trip through the enrolled bill process. (A few dozen have already made their way to the governor and have been signed into law. See the list [here](#).) Any bill that was amended in the second chamber goes back to the first chamber, which will decide to either concur with the amendment, request a committee of conference, or "non-concur" and let the bill die. The last of these options is not often exercised.

All committees of conference must be created by next Thursday, June 13, and must issue their reports by Thursday, June 20. Information about each committee of conference, including the names of members and time and place of the first meeting, will appear on the bill's docket and at the "Committees of Conference" link under "Resources" near the bottom of the [general court website's home page](#). Committees frequently meet and then recess until a time later the same day or the following day, and the time and place of the recessed meeting do not necessarily get posted on the website; thus, it often is necessary to be at the initial meeting to know when and where the recessed meeting will occur.

If a committee of conference on a given bill reaches agreement, the agreed-upon version of that bill then goes to both the House and the Senate for an up-or-down vote—no further amendments are permitted. If both chambers approve the committee of conference report, the bill passes and goes to the governor. If either chamber rejects it, the bill dies. For more information about committee of conference procedures, please see the explanation at page 2 of [the June 7 House calendar](#).

Tabled Bills, Retained Bills, and the 2020 Session

As the legislative session winds down, here are a few housekeeping items.

Retained and re-referred bills. The House and Senate will hold their last meetings of the regular 2019 session on June 27, but that is not the end of legislative activity for the year. There are 157 retained bills in the House and 74 re-referred bills in the Senate, all of which must receive a committee recommendation by late this calendar year (November 14 for retained bills, December 19 for re-referred bills). A few committees have scheduled meetings for the next couple weeks to discuss retained bills, but most will not do so until September or later. (There usually is minimal or no legislative activity in July and August.) As we do not publish the *Legislative Bulletin* in the summer and fall, please check the House and Senate calendars regularly for committee activity on any retained or re-referred bills of interest.

Every retained or re-referred bill will ultimately get a committee recommendation of Ought to Pass (or Ought to Pass with Amendment), Inexpedient to Legislate, or Refer for Interim Study. Those recommendations will go to the full House or Senate, as the case may be, at their first session in January, and each bill will proceed from there in the same manner as other bills.

Tabled bills. Each week's House calendar and Senate calendar includes a list of bills that have been laid on the table in that chamber. Bills that were still on the table after yesterday's sessions will die there. It is theoretically possible for a bill to be removed from the table now and passed, but because the deadlines for action on all bills have passed, this would require each body to suspend its rules; this is extremely unlikely.

As we have pointed out, a bill's death on the table doesn't necessarily prevent it from living on in spirit. In more than one case, the language of a tabled bill has been added to another bill, such as **HB 2**, the budget "trailer bill." (See the article about the housing appeals board and the Right-to-Know Law ombudsman, above.)

A tabled bill also could come back next year with a different bill number. This may surprise some who are familiar with the rule that if a bill is killed in the legislature's first year, a substantially similar bill cannot be introduced in the second year. That rule, however, applies only to bills that were "indefinitely postponed or voted inexpedient to legislate." If a bill dies in any other manner—on the table, or because of non-concurrence on an amendment or a committee of conference's failure to reach agreement, or a veto by the governor—a substantially similar bill may be introduced the next year.

The 2020 session. It may seem too early to begin thinking about legislation for next year. It's not. In fact, if you wait a few months, it will be too late.

The House this week amended its rules to adopt deadlines for filing legislation for next year. There will be just one period this year for filing legislative service requests (unlike election years, when there is one period after the state primary and one period after the general election). The filing period opens on September 4 and ends on September 20. We have not yet seen the Senate's schedule—it usually has later deadlines.

Local officials who are thinking about proposing legislation for next year should talk to their representatives and/or senator soon. And please let us know about anything you are proposing, so we can work together as appropriate, or at least not work at cross purposes.

HOUSE FLOOR ACTION

Wednesday, June 5, 2019

Thursday, June 6, 2019

SB 10, establishing the state minimum hourly rate based on whether an employer offers paid sick days to an employee. **Passed with Amendment.**

SB 37, relative to the registration of motor vehicles. **Passed with Amendment.**

SB 39, relative to the repair of roads not maintained by a municipality. **Passed with Amendment.**

SB 53-LOCAL, relative to maintenance of roads and highways to summer cottages. **Passed**

SB 56, (New Title) establishing a committee to study motor vehicle registrations and drivers' licenses of active duty military personnel. **Passed.**

SB 74-FN-A, (2nd 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 and to review the LCHIP surcharge. **Passed with Amendment.**

SB 103-LOCAL, authorizing municipalities to engage in multi-town bonding projects. **Passed with Amendment.**

SB 134-FN, relative to the administration of the meals and rooms tax. **Passed.**

SB 149, relative to voluntary application of the uniform prudent management of institutional funds act to certain charitable trusts. **Passed.**

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

SB 204, (New Title) relative to encouraging the development of electrical energy storage by both private market participants and regulated electric utility companies. **Tabled.**

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

SB 262-FN, (New Title) relative to the property interest in abandoned personal materials. **Tabled.**

SB 272-FN, relative to mental health parity under the insurance laws. **Passed.**

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

SB 286-FN-LOCAL, relative to aggregation of electric customers by municipalities and counties. **Passed with Amendment.**

SB 307-FN, relative to outdoor lighting. **Passed.**

SENATE FLOOR ACTION

Thursday, June 6, 2019

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. **Passed with Amendment.**

HB 2-FN-A-L, relative to state fees, funds, revenues, and expenditures. **Passed with Amendment.**

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

HB 544, relative to the governance of the Manchester school district. **Passed.**

HB 556, allowing municipalities to process absentee ballots prior to election day. **Re-referred.**

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

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.**

2019 NHMA UPCOMING EVENTS FOR MEMBERS	
June 14	NHMA/NHMLA: Ethics for Municipal Attorneys
June 25	Municipal Trustees Training, Gorham
June 26	Webinar: 2019 Legislative Wrap-up
July 10	Webinar: Right-to-Know Law and Governmental Records
July 23	Regional RTK and Governmental Meetings (6:30 p.m. - Keene)
August 6	Regional RTK and Governmental Records (1:30 p.m. - Moultonborough)
September	2019 Budget and Finance Workshops (Manchester & Lincoln)
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.	