

# LEGISLATIVE

## FINAL BULLETIN

2012 Session

July 27, 2012

**INSIDE THIS ISSUE:**

<i>A Call for Volunteers</i>	3
<i>Table of Contents</i>	4
<i>Glossary</i>	4
<i>Chapter Law Summaries</i>	7
<i>Where to Obtain 2012 Laws</i>	18

### Holding the Line

The 2012 legislative session in New Hampshire was notable for its many intense battles on issues like abortion, right-to-work, guns, and same-sex marriage. These and other issues led to numerous confrontations between the House and Senate, between the Legislature and the Governor, between the two political parties, and even among members of the same party.

For cities and towns, however, it was ultimately a surprisingly peaceful year, with some modest steps forward, no significant losses, and many threats rebuffed. Although there were plenty of bills that raised concerns, including an unusual number that would have crippled local government, they all, happily, came to naught. Of course, that is not to say it was easy, and there were some nervous moments along the way.

The New Hampshire Municipal Association (NHMA) staff followed about 275 bills of municipal interest during the session, of which about 75 became law and are reported here in summary form. You can find all of the laws that were enacted on the Legislature’s website.\* If you have any trouble finding specific information, please contact the Government Affairs staff for assistance.

Much of this year’s effort was dedicated to defeating proposed restrictions on municipal authority. Several bills that would have limited the authority of conservation commissions met quick deaths in the House. Two troubling gun bills - one that would have exempted gun shops from local zoning ordinances and site plan review, and another that would have removed any restriction on discharging a gun or a cannon in the compact area of a municipality - passed the House but died in the Senate. A bill to prohibit cities and towns from employing lobbyists or belonging to an organization that employs lobbyists was defeated overwhelmingly in the House.

By a surprisingly wide margin, the House killed an effort to revive the property tax exemption for telephone poles and conduits, despite a 13-1 committee report favoring the bill. And a proposal to convert the New Hampshire Retirement System’s defined benefit plan into a defined contribution plan—an interesting idea in theory, but extremely premature because of the short-term cost and the many uncertainties about such a conversion - could not get past the Senate, despite repeated efforts by the House.

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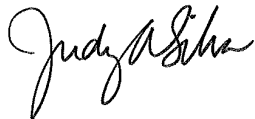
*Holding the Line - continued*

Three NHMA policy bills became law in 2012: chapter 219 (SB 83) authorizes municipalities to create irrevocable trusts to pay “other post-employment benefits”; chapter 106 (SB 291) authorizes the expenditure of impact fees for improvements to state highways within a municipality; and chapter 261 (HB 1483) repeals the so-called “spiking” assessments for excess retirement benefits paid by public employers. Another important success was chapter 286 (SB 326), which restores reimbursement payments to municipalities that have had land taken by the federal government for flood control.

While the NHMA staff was active on all of these bills, in most cases it was the efforts of local officials that made the difference. As always, there were innumerable occasions during the session when we heard a legislator comment, before voting to support municipal interests, that “I’ve heard from a lot of my selectmen” (or town administrators, or town clerks...). Thank you for all you do, and please keep doing it. Also, please thank your legislators who supported local government with their votes.

We want to thank all of the NHMA/LGC staff for their support during the legislative session. In addition to the NHMA staff, we relied, as always, on the Legal Services, Communications, and IT staffs, as well as a number of other employees, for input on legislation, assistance with the weekly Legislative Bulletin, organization of Municipal Advocacy Committee and Committee on Government Affairs meetings, and other aspects of the municipal advocacy program.

On behalf of the Government Affairs staff, we hope you are having an enjoyable and relaxing summer. Please do not hesitate to contact us if you have questions, concerns, or suggestions.



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\* [http://gencourt.state.nh.us/bill\\_status/misc/chaptered\\_final\\_version.aspx](http://gencourt.state.nh.us/bill_status/misc/chaptered_final_version.aspx)

# A Call for Volunteers



At its annual meeting in November, NHMA will elect new members to its Municipal Advocacy Committee (MAC) and Committee on Government Affairs (CGA). If you are an elected or appointed municipal official and are interested in legislative policy affecting cities and towns, this is a good opportunity to get involved.

MAC oversees NHMA's legislative advocacy activities. It comprises 31 members, including the 12 municipal members of the Local Government Center's board of directors and 19 other local officials elected by the NHMA membership. It typically meets once a month during the legislative session (January through June) to review legislative developments, establish policy positions on new issues that arise during the session, and provide guidance to NHMA's Government Affairs staff. It also has an annual meeting in November at the Local Government Center's annual conference, during which it approves the NHMA budget and elects officers for the following year.

CGA is responsible for recommending legislative policy positions to the NHMA membership at the Legislative Policy Conference, and for serving as an advisory body to MAC. It consists of 75 elected and appointed local officials, including the 31 members of the MAC, who represent all regions of the state, and all sizes of towns and cities.

In the spring of each even-numbered year, before the new legislative biennium, CGA solicits legislative policy proposals from member municipalities. Three CGA policy sub-committees review these proposals and make recommendations to NHMA's Legislative Policy Conference, held during the fall of the same year.

In addition to the meetings during the biennial policy-setting process, CGA typically holds joint meetings with MAC twice a year, in February and April. CGA members also are encouraged to keep informed on legislative developments and to be involved with legislative advocacy activities in any way they feel comfortable, such as testifying before legislative committees, making calls and writing to legislators, or working with NHMA staff on pending and proposed legislation.

The MAC nominating committee will meet in September to nominate candidates for membership on both MAC and CGA. Terms on MAC and CGA are three years, but if you are unsure about making a long initial commitment, there may be unexpired terms to be filled.

**If you think you may be interested in serving on either committee,  
please contact the Government Affairs staff as soon as possible!**

**1-800-852-3358 ext. 3408**

**or**

**Email: [governmentaffairs@nhlgc.org](mailto:governmentaffairs@nhlgc.org)**

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## TABLE OF CONTENTS

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Glossary: E.D. – Effective Date    HB – House Bill    SB – Senate Bill

### **I. CLERKS; ELECTIONS; TOWN MEETING; OFFICIAL BALLOT; CHARTERS..... 7**

*Statement of Tax Impact of Warrant Articles. Chapter 6 (HB 1170)*  
*New State Senate Districts. Chapter 8 (SB 201)*  
*New State Representative Districts; Ward Boundaries. Chapter 9 (HB 592)*  
*Secretary of State May Change or Extend Filing Periods. Chapter 42 (HB 1719)*  
*Committee to Study Transferring Election Enforcement Responsibility. Chapter 94 (HB 1664)*  
*Expanded Period for Election of Charter Commission Members. Chapter 101 (SB 233)*  
*Re-Registration of Undeclared Voters; Ballots-Cast Form. Chapter 113 (SB 236)*  
*Agricultural Plates for Cargo Vans. Chapter 120 (HB 1307)*  
*Committee to Study the Official Ballot (SB 2) Form of Government. Chapter 130 (SB 238)*  
*Special Revenue and Recreation Revolving Funds; Special Warrant Articles. Chapter 181 (SB 254)*  
*Modifications to Service Animals Registration and Licensing. Chapter 211 (HB 1362)*  
*Voters Must Present Photo Identification. Chapter 284 (SB 289)*  
*Voter Registration Requirements. Chapter 285 (SB 318)*  
*Challenged Voter Affidavit to Be Used for Voter Identification. Chapter 289 (HB 1354)*

### **II. INTERGOVERNMENTAL RELATIONS; RETIREMENT; STATE BUDGET..... 9**

*Average Final Compensation for Pension Purposes. Chapter 166 (SB 230)*  
*New Hampshire Retirement System (NHRS) Definition of “Part-Time” and Technical Changes.  
 Chapter 194 (SB 244)*  
*Secretary of State’s Authority Over Pooled Risk Programs Continued. Chapter 230 (HB 655)*  
*Repeal of Pension Spiking Assessment and Special Account. Chapter 261 (HB 1483)*  
*State Reimbursement for Flood Control Lands. Chapter 286 (SB 326)*

### **III. MUNICIPAL ADMINISTRATION AND FINANCE MANAGEMENT; LEGAL MATTERS; ECONOMIC DEVELOPMENT; MANDATES; RIGHT TO KNOW LAW; LABOR;..... 10**

*Maintenance of Municipal Cemeteries. Chapter 4 (HB 382)*  
*Right to Know Law Applies to Certain Public Libraries. Chapter 96 (SB 214)*  
*Sewer Commission Costs. Chapter 138 (SB 389)*  
*Revised Test for Determining Employee Status. Chapter 139 (HB 420)*  
*Increased Thresholds for Workers’ Compensation Safety Programs. Chapter 144 (HB 1587)*  
*Communication During Collective Bargaining. Chapter 161 (HB 582)*  
*Contract Required for Utility Work on Customer Property. Chapter 178 (SB 231)*  
*Special Revenue and Recreation Revolving Funds; Special Warrant Articles. Chapter 181 (SB 254)*  
*TIF Districts Subject to Municipal Budget Law. Chapter 186 (SB 306)*  
*Attorney Fees in Building Accessibility Cases. Chapter 197 (SB 359)*  
*Additional Remedies Under Right to Know Law. Chapter 206 (HB 1223)*  
*Revised Standards for Unemployment Compensation Liability. Chapter 212 (HB 1366)*  
*Landowner Liability for Condition of Premises Used for Recreation. Chapter 214 (HB 1551)*  
*Establishment of Other Post-Employment Benefits (OPEB) Trusts. Chapter 219 (SB 83)*  
*Taxpayer Standing in Declaratory Judgment Actions. Chapter 262 (HB 1510)*  
*Requirements for Arrest Records. Chapter 263 (HB 1535)*

<b>IV. PLANNING AND ZONING.....</b>	<b>12</b>
<i>Impact Fees May Be Spent on State Highways. Chapter 106 (SB 291)</i>	
<i>Setback Requirements for Junkyards. Chapter 108 (SB 340)</i>	
<b>V. ENVIRONMENTAL REGULATION AND PROTECTION; SOLID/HAZARDOUS WASTE; WATER.....</b>	<b>12</b>
<i>Development of Wetland Mitigation Banks. Chapter 74 (HB 1380)</i>	
<i>ATV and Trail Bike Trails on State Lands. Chapter 84 (SB 250)</i>	
<i>Statement Required if Public Water Supply is Fluoridated. Chapter 122 (HB 1416)</i>	
<i>Definition of Stormwater. Chapter 132 (SB 265)</i>	
<i>Extension for Certain Wetland Permits. Chapter 145 (HB 1636)</i>	
<i>No Septic Approval Needed for Certain Construction. Chapter 147 (HB 1721)</i>	
<i>Expiration and Extension of Terrain Alteration Permits. Chapter 148 (SB 241)</i>	
<i>Repair or Replacement of Septic System by Rule. Chapter 174 (HB 1415)</i>	
<i>Prohibited Entry on Private Property. Chapter 202 (HB 514)</i>	
<i>Definition and Designation of “Prime Wetlands” Modified. Chapter 235 (SB 19)</i>	
<i>Limitation for Non-Conforming Structures Located within Protected Shoreland. Chapter 276 (HB 1484)</i>	
<b>VI. PUBLIC SAFETY; POLICE; FIRE; BUILDING/HEALTH INSPECTION.....</b>	<b>13</b>
<i>Health Officers May Serve Temporarily in Other Municipalities. Chapter 15 (HB 1349)</i>	
<i>Larger Boards Allowed for Mosquito Control Districts. Chapter 88 (HB 1357)</i>	
<i>Vandalizing State or Municipal Property Defined as Criminal Mischief. Chapter 133 (SB 276)</i>	
<i>Infectious Disease Exposure Evaluation and Reporting. Chapter 152 (SB 281)</i>	
<i>Attorney Fees in Building Accessibility Cases. Chapter 197 (SB 359)</i>	
<i>Warrantless Arrests for Willful Concealment. Chapter 205 (HB 1184)</i>	
<i>Notice of Building and Fire Code Appeals Process. Chapter 225 (HB 1480)</i>	
<i>Changes to State Building and Fire Codes. Chapter 242 (HB 137)</i>	
<i>Sheriff May Issue Pistol Licenses in Certain Circumstances. Chapter 255 (HB 1246)</i>	
<i>Arrest Records Subject to Right to Know Law. Chapter 263 (HB 1535)</i>	
<b>VII. PUBLIC WORKS; ROADS AND HIGHWAYS; SPEED LIMITS; AIRPORTS; RAILS.....</b>	<b>14</b>
<i>Appointment of Tree Wardens Modified and Authority Expanded. Chapter 24 (HB 108)</i>	
<i>Annual Inspections for Trucks Exceeding 18,000 Pounds Gross Vehicle Weight. Chapter 38 (HB 1585)</i>	
<i>Reclassification of Province Road in Strafford. Chapter 45 (SB 394)</i>	
<i>Commission to Study Taxation of Alternative Fuel and Electric Vehicles. Chapter 86 (HB 1144)</i>	
<i>Setback Requirements for Junkyards. Chapter 108 (SB 340)</i>	
<i>Wide Berth for Highway Workers and Vehicles. Chapter 135 (SB 315)</i>	
<i>Sewer Commission Costs. Chapter 138 (SB 389)</i>	
<i>Contract Required for Utility Work on Customer Property. Chapter 178 (SB 231)</i>	
<i>Ten-Year Transportation Improvement Plan. Chapter 193 (HB 1716)</i>	
<i>Certification of Municipal Culvert Installers. Chapter 273 (SB 247)</i>	

**VIII. TAXES; ASSESSING AND COLLECTIONS; EXEMPTIONS; CURRENT USE.....15**

*Equalized Valuation of Property Subject to Community Revitalization Tax Relief. Chapter 14 (HB 1302)*

*Electronic Billing for Taxes, Water and Sewer Charges. Chapter 29 (HB 1224)*

*Assessing Standards Board to Recommend Standards Rather than Guidelines. Chapter 30 (HB 1266)*

*Extension of Land Use Change Tax Lien Period. Chapter 104 (SB 255)*

*Definition of Owner for Timber Tax Purposes. Chapter 141 (HB 1207)*

*Current Use Taxation of Access Road. Chapter 160 (SB 395)*

*Prorated Assessments on Damaged Buildings. Chapter 169 (SB 382)*

*Commercial and Industrial Tax Exemption Made Permanent, Amended. Chapter 186 (SB 306)*

**IX. WELFARE; EDUCATION; LIBRARIES; HUMAN SERVICES; HOUSING..... 16**

*Right-to-Know Law Applies to Certain Public Libraries. Chapter 96 (SB 214)*

*Reinstatement of Right to Recover Welfare Expense. Chapter 157 (SB 369)*

**X. UTILITIES..... 17**

**XI. EDUCATION FUNDING..... 17**

*Amendments to Education Funding Definitions. Chapter 198 (SB 401)*

**XII. SPECIAL ACTS..... 17**

*Portsmouth Ward Boundaries. Chapter 9 (HB 592)*

*Joseph E. Stone Highway. Chapter 22 (SB 391)*

*Greenland-Portsmouth Water Rights. Chapter 91 (HB 1563)*

*Land Use Regulation at Pease Air Force Base. Chapter 182 (SB 259)*

## I. CLERKS; ELECTIONS; TOWN MEETING; OFFICIAL BALLOT; CHARTERS

***Statement of Tax Impact of Warrant Articles.*** Chapter 6 (HB 1170) allows a town to vote to require that the annual budget and all *special* warrant articles having a tax impact shall include a notation stating the estimated tax impact of the article. The determination of whether an article has a tax impact, and the estimated amount of the impact, is to be made by the governing body. **E.D. May 21, 2012. (The words “effective date” are hereafter abbreviated “E.D.”)**

***New State Senate Districts.*** Chapter 8 (SB 201) establishes new state senate districts in accordance with the 2010 federal census. **E.D. March 23, 2012.**

***New State Representative Districts; Ward Boundaries.*** Chapter 9 (HB 592) establishes new state representative districts in accordance with the 2010 federal census. It also provides that ward boundaries adopted as of January 17, 2012, shall be the boundaries used to determine representative districts beginning with the November 2012 elections, and establishes ward boundaries for the City of Portsmouth. **E.D. March 28, 2012. See also section XII.**

***Secretary of State May Change or Extend Filing Periods.*** Chapter 42 (HB 1719) provides that if the elective districts for the U.S. Congress, Executive Council, New Hampshire Senate, county commissioners, New Hampshire House, or delegates to party conventions have not been amended according to the most recent federal census before the commencement of the candidate filing period, the Secretary of State may change or extend the filing period as necessary to implement revised elective districts. **E.D. May 2, 2012.**

***Committee to Study Transferring Election Enforcement Responsibility.*** Chapter 94 (HB 1664) establishes a legislative committee to study transferring responsibility for enforcement of the election laws from the Attorney General to the Secretary of State. The committee is to report its findings and any recommendations for legislation on or before November 1, 2012. **E.D. May 29, 2012.**

***Expanded Period for Election of Charter Commission Members.*** Chapter 101 (SB 233) expands the period during which an election for members of a charter commission may be held. Under previous law, the governing body was required to meet within five days after the deadline for a recount of a vote confirming the establishment of a commission, and schedule the election for a Tuesday 56 to 63 days after that meeting. Under the new law, the election may be scheduled for a Tuesday 23 to 133 days after the meeting of the governing body. **E.D. May 29, 2012.**

***Re-Registration of Undeclared Voters; Ballots-Cast Form.*** Chapter 113 (SB 236), among other things, (1) permits a voter who has been registered as an undeclared voter to re-register as undeclared after voting in a primary by signing a list of undeclared voters from the statewide centralized voter registration database (CVRD); (2) provides that the list of undeclared voters from the CVRD must be retained for seven years; and (3) changes the requirements for the ballots-cast form submitted by the moderator after an election. **E.D. May 31, 2012.**

***Agricultural Plates for Cargo Vans.*** Chapter 120 (HB 1307) allows cargo vans to qualify for agricultural vehicle registration in the same manner as trucks, truck-tractors, and tractors. **E.D. June 5, 2012.**

***Committee to Study the Official Ballot (SB 2) Form of Government.*** Chapter 130 (SB 238) establishes a committee to study the SB 2 form of government. The committee is directed to “examine the implementation and administration of the official ballot referendum form of meeting” and make recommendations to improve the process and “enhanc[e] flexible governance.” **E.D. June 5, 2012.**



***Special Revenue and Recreation Revolving Funds; Special Warrant Articles.*** Chapter 181 (SB 254) requires a two-thirds vote of the legislative body at an annual meeting to change the source or fractional portion of revenue going into special revenue funds and to change the purpose of expenditures from those funds. The law also requires that any amount remaining after rescission of a special revenue fund or recreation revolving fund lapse to the general fund. Finally, it expands the definition of a special warrant article to include an article that calls for an appropriation to *or from* a separate fund created pursuant to statute. **E.D. August 10, 2012.**

***Modifications to Service Animals Registration and Licensing.*** Chapter 211 (HB 1362) expands the exemption from dog license fees for guide dogs to apply to any “service animal dog” as defined in existing law. The chapter also allows the owner of a service animal to opt for a one-time, permanent licensing and registration of his or her service animal if specified criteria are met. The municipal clerk must establish a process for tracking permanently registered service animal dogs to ensure that they are not subject to annual renewal requirements. **E.D. August 12, 2012.**

***Voters Must Present Photo Identification.*** Chapter 284 (SB 289) requires a voter to present a valid photo identification to vote at any election. If the voter does not have a valid photo identification, he or she may vote by executing a qualified voter affidavit. ***(However, this is changed to a challenged voter affidavit by chapter 289, described below.)*** The identification requirement also may be satisfied if the voter’s identity is verified by the moderator, supervisor of the checklist, or town or city clerk. For elections before November 1, 2012, if a voter does not present a photo identification, the voter will still be permitted to vote without executing an affidavit, but the ballot clerk must provide the voter with a copy of an explanatory document prepared by the Secretary of State’s office describing the requirement and must explain the need for a photo identification after November 1.

For elections after September 1, 2013, if the voter executes an affidavit in lieu of showing a photo identification, the moderator or moderator’s designee must take a photograph of the voter (unless the voter objects because of religious beliefs) and immediately print the photograph and attach it to the affidavit. There is also a shorter list of forms of identification that satisfy the requirement for elections after September 1, 2013, and verification of identity by an election official will no longer be permitted. **E.D. June 27, 2012, and September 1, 2013.**

***Voter Registration Requirements.*** Chapter 285 (SB 318) makes numerous changes to forms and procedures for voter registration. Among other things, it repeals the law providing that a person’s claim of domicile for voting purposes is not conclusive of residence for any other purpose, and requires a voter to acknowledge that (1) a person can claim only one state and one city or town as his or her domicile; (2) he or she is not domiciled or voting in any other state or any other city or town; and (3) in declaring New Hampshire as his or her domicile, he or she is subject to New Hampshire laws that apply to all residents, including laws requiring a driver to register a motor vehicle and apply for a New Hampshire driver’s license within 60 days of becoming a resident. **E.D. August 26, 2012.**

***Challenged Voter Affidavit to Be Used for Voter Identification.*** Chapter 289 (HB 1354) amends the voter identification requirement established by chapter 284, described above. Under this amendment, if a voter does not have a valid photo identification, the voter must complete a *challenged* voter affidavit (governed by RSA 659:27), rather than a *qualified* voter affidavit (governed by RSA 654:12). **E.D. July 6, 2012, and September 1, 2013.**



## II. INTERGOVERNMENTAL RELATIONS; RETIREMENT; STATE BUDGET

***Average Final Compensation for Pension Purposes.*** Chapter 166 (SB 230) clarifies retirement reform language enacted under Chapter 224, Laws of 2011 (HB 2). For New Hampshire Retirement System members hired on or after July 1, 2011, the amount of compensation above base pay included in the pension computation will be limited to the average *percentage* of compensation over base pay in the highest five years rather than the average *dollar* amount of compensation over base pay. **E.D. June 7, 2012.**

***New Hampshire Retirement System (NHRS) Definition of “Part-Time” and Technical Changes.*** Chapter 194 (SB 244) amends various sections of the New Hampshire Retirement System statute, RSA 100-A. First, the definition of “part-time” for NHRS retirees employed by NHRS-participating employers is modified to limit retirees to a maximum of 32 hours per week or 1,300 hours in a calendar year within a five-consecutive-month period for one or more employers, or in both Group I and Group II positions. Under previous law, the 32/1,300 hour limitations were per employer or per group with the same employer, which allowed part-time employment of retirees to exceed those hours if the employment was with multiple employers or in both Group I and Group II.

The law also changes the period for computation of the interest rate to be credited to members’ accounts from a fiscal year to a calendar year, and changes the due date for the NHRS comprehensive annual financial report from December 1 to December 31.

Finally, the bill clarifies:

- the date from which NHRS must begin calculating a seven-year average of extra and special duty pay for Group II (police and fire) members vested prior to January 1, 2012;
- the number of years of creditable service certain Group II members must have for supplemental disability benefits;
- the definition of “compensation over base pay” for members not vested prior to January 1, 2012; and  
that the maximum benefit limit is 100 percent of earnable compensation for members hired before July 1, 2009, and the lesser of 85 percent of average final compensation or \$120,000 for members hired after that date.

**E.D. January 1, 2012, for calculation of seven-year average of extra and special duty pay; June 11, 2012, for all other provisions.**

***Secretary of State’s Authority Over Pooled Risk Programs Continued.*** Chapter 230 (HB 655) eliminates a prospective repeal of the Secretary of State’s authority to enforce the statute relative to public pooled risk programs and investigate and impose penalties for violations of the statute. The Secretary of State’s authority had been scheduled to expire in 2013. **E.D. June 18, 2012.**

***Repeal of Pension Spiking Assessment and Special Account.*** Chapter 261 (HB 1483) repeals the penalty for excess retirement benefits that was enacted in 2008 and had been slated to take effect July 1, 2012. The bill also repeals the retirement system special account and all statutory references to it. **E.D. June 18, 2012, for excess benefits penalty repeal; July 1, 2012, for special account repeal. NHMA POLICY.**

***State Reimbursement for Flood Control Lands.*** Chapter 286 (SB 326) repeals language enacted in Chapter 244, Laws of 2011 (HB 2), that had resulted in reductions of the payments-in-lieu-of-taxes (PILOTs) made by the State of New Hampshire to those municipalities where land had been taken for flood control purposes. Beginning in fiscal year 2013, municipalities will receive full reimbursement of those PILOTs regardless of whether other states involved in the flood control compacts have made their required payments to the

State of New Hampshire. Additionally, if other states make any payments toward the arrearages owed to New Hampshire, the state treasurer will distribute such money to the affected municipalities to compensate for the reduced payments made in fiscal years 2011 and 2012. **E.D. July 1, 2013, for repeal; June 27, 2012, for reimbursements from arrearage payments.**

### **III. MUNICIPAL ADMINISTRATION AND FINANCE MANAGEMENT; LEGAL MATTERS; ECONOMIC DEVELOPMENT; MANDATES; RIGHT TO KNOW LAW; LABOR**

***Maintenance of Municipal Cemeteries.*** Chapter 4 (HB 382) eliminates the requirement that municipalities maintain or install a fence around municipal cemeteries. It also requires municipalities to raise and appropriate funds to maintain cemeteries only if maintenance is not provided for by an alternative funding source. **E.D. May 11, 2012.**

***Right to Know Law Applies to Certain Public Libraries.*** Chapter 96 (SB 214) clarifies that the Right to Know Law applies to any public library that has been established or accepted by a town or city. Such a library will be deemed a “public agency,” and the board of trustees a “public body,” as defined in the Right to Know Law. **E.D. July 28, 2012.**

***Sewer Commission Costs.*** Chapter 138 (SB 389) amends RSA 149-I:10, II by requiring that the sewer commission remit to the municipality those costs incurred by the municipality in support of sewer operations, including financial audit, facility insurance, treasurer compensation, and office support costs. The law also authorizes the board of selectmen to set the portion of the treasurer’s compensation for which the sewer commission is responsible. **E.D. August 4, 2012.**

***Revised Test for Determining Employee Status.*** Chapter 139 (HB 420) revises the 12-factor test for determining whether a person is an employee or an independent contractor for purposes of the workers’ compensation statute, minimum wage requirements, and other state laws. The new law eliminates five of the 12 factors and thus makes it easier for a person to qualify as an independent contractor. The change does not affect the test used for federal income tax purposes. **E.D. August 6, 2012.**

***Increased Thresholds for Workers’ Compensation Safety Programs.*** Chapter 144 (HB 1587) raises the minimum employee thresholds from 10 to 15 for the required preparation of a workers’ compensation safety program, and from five to 15 for the mandatory establishment of a joint loss management committee. Previously established penalties for noncompliance are reduced, and the workers’ compensation safety inspection fund is closed, with penalties now to be deposited into the general fund. **E.D. January 1, 2013.**

***Communication During Collective Bargaining.*** Chapter 161 (HB 582) allows the chief negotiator for either side in a public employee collective bargaining process to request the opportunity to communicate directly with the other party when the parties have reached an impasse. The chief negotiator for the bargaining unit may ask to make a presentation directly to the board of the public employer; if the request is approved, the chief negotiator for the employer will have a reciprocal right to make a presentation directly to the bargaining unit. Similarly, the chief negotiator for the employer may ask to make a presentation directly to the bargaining unit, and if the request is granted, the chief negotiator for the bargaining unit will have a reciprocal right to make a presentation directly to the board of the employer. The parties may adopt ground rules that alter or eliminate these rights. **E.D. January 1, 2013.**

***Contract Required for Utility Work on Customer Property.*** Chapter 178 (SB 231) provides that a municipal utility may not perform non-emergency work on facilities (such as water or sewer pipes) on customer property beyond the point of municipal responsibility unless there is a written contract with the owner, or unless the total cost of the project is \$250 or less. The contract must include the terms of the work to be performed and certain other information. No lien may be placed on the property for such work in the absence of a contract. **E.D. August 10, 2012.**

***Special Revenue and Recreation Revolving Funds; Special Warrant Articles.*** Chapter 181 (SB 254) requires a two-thirds vote of the legislative body at an annual meeting to change the source or fractional portion of revenue going into special revenue funds and to change the purpose of expenditures from those funds. The law also requires that any amount remaining after rescission of a special revenue fund or recreation revolving fund lapse to the general fund. Finally, it expands the definition of a special warrant article to include an article that calls for an appropriation to *or from* a separate fund created pursuant to statute. **E.D. August 10, 2012.**

***TIF Districts Subject to Municipal Budget Law.*** Chapter 186 (SB 306) provides that the Municipal Budget Law, RSA 32, applies to municipal economic development and revitalization districts (also known as tax increment financing districts, or TIF districts). **E.D. June 11, 2012. See also section VIII.**

***Attorney Fees in Building Accessibility Cases.*** Chapter 197 (SB 359) provides that in an action brought by the Disabilities Rights Center (DRC) to enforce accessibility standards for public buildings under the state building code, the court may award reasonable attorney fees and costs to the prevailing party. Previously, fees and costs could be awarded only to DRC if it prevailed. **E.D. August 12, 2012.**

***Additional Remedies Under Right to Know Law.*** Chapter 206 (HB 1223) adds remedies for violations of the Right to Know Law. Under the new law, if a court finds that a public officer, employee, or other official has violated any provision of the law in bad faith, the court *must* impose a civil penalty of not less than \$250 and not more than \$2,000. The individual violator may also be required to reimburse the public body or agency that he or she represents for any attorney fees it has been ordered to pay as a result of the violation. The court may also require any person who violates the law to undergo appropriate remedial training at the person's own expense. **E.D. January 1, 2013.**

***Revised Standards for Unemployment Compensation Liability.*** Chapter 212 (HB 1366) increases from four to 12 the number of weeks that an employee must have worked for a non-reimbursing employer before the employer becomes responsible for a share of the employee's unemployment compensation benefits. It also makes several changes to the conditions of benefit eligibility and the grounds for disqualification for benefits. **E.D. October 1, 2012.**

***Landowner Liability for Condition of Premises Used for Recreation.*** Chapter 214 (HB 1551) clarifies the immunity from liability for landowners who give permission to others to use their property for outdoor recreational activity, and provides for the award of attorney fees and costs against a person who brings an action against such a landowner if the claim is barred by the law's immunity provision and if the claimant had no reasonable basis for bringing the action. **E.D. June 13, 2012.**

***Establishment of Other Post-Employment Benefits (OPEB) Trusts.*** Chapter 219 (SB 83) authorizes municipalities and school districts to create irrevocable trusts to fund post-employment liabilities such as retiree health care costs. Such OPEB trusts will be held in the custody of the trustees of trust funds, and may only be used to pay for post-employment liabilities incurred on or before January 1, 2012. **E.D. July 1, 2012.**  
**NHMA POLICY.**

***Taxpayer Standing in Declaratory Judgment Actions.*** Chapter 262 (HB 1510) clarifies that any taxpayer in a "taxing district" (town, city, school district, etc.) within the state has standing to file a declaratory judgment action when it is alleged that the taxing district or any agency or authority of the taxing district has engaged in unlawful or unauthorized conduct, even if the taxpayer's personal rights are not impaired or prejudiced. However, taxpayer standing does not exist to challenge a court decision if the taxpayer was not a party to the case, or to challenge a decision of any board, commission, or agency if there exists a statutory right to appeal the decision and the person seeking to challenge the decision is not entitled to appeal. **E.D. January 1, 2013.**

***Requirements for Arrest Records.*** Chapter 263 (HB 1535) clarifies that arrest records are “governmental records” under the Right to Know Law and are subject to disclosure in accordance with that law. It also requires arrest records to include, at a minimum, the identity of the person arrested, the identity of the arresting officer unless the officer’s supervisor has good cause to believe that identifying the officer would not serve the public interest, a statement of the reasons for the arrest and how it was made, the alleged crime, and whether the arrest was made pursuant to a warrant. **E.D. January 1, 2013.**

#### **IV. PLANNING AND ZONING**

***Impact Fees May Be Spent on State Highways.*** Chapter 106 (SB 291) provides that if a municipality has collected impact fees for improvements to municipal roads, it may spend those fees on *state* highways within the municipality “for improvement costs that are related to the capital needs created by the development.” However, the municipality is not allowed to collect additional fees for improvements to state highways, or to adopt “new impact fees devoted to assessing impacts to state highways.” The new law also requires every municipality with an impact fee ordinance to prepare an annual report listing all expenditures of impact fee revenue for the prior fiscal year, identifying the capital improvement projects for which the fees were assessed, and stating the dates upon which the fees were assessed and collected. The report must enable the public to track the payment, expenditure, and status of individually collected fees. **E.D. July 28, 2012. NHMA POLICY.**

***Setback Requirements for Junkyards.*** Chapter 108 (SB 340) provides that if a municipality has not enacted a zoning ordinance, the governing body may adopt an ordinance establishing lesser setback requirements than those required under state law for junkyards and automotive recycling yards. **E.D. July 28, 2012.**

#### **V. ENVIRONMENTAL REGULATION AND PROTECTION; SOLID/HAZARDOUS WASTE; WATER**

***Development of Wetland Mitigation Banks.*** Chapter 74 (HB 1380) permits the establishment of wetland mitigation banks by any individual or public or private entity, provided such bank complies with all federal and state regulations and all requirements of the Army Corps of Engineers. **E.D. July 22, 2012.**

***ATV and Trail Bike Trails on State Lands.*** Chapter 84 (SB 250) modifies the “fine filter” criteria for establishing a trail for ATVs and trail bikes on state lands, and allows for OHRV operation on certain highways and trail crossings and connectors in Coos County. **E.D. May 23, 2012.**

***Statement Required if Public Water Supply is Fluoridated.*** Chapter 122 (HB 1416) requires a fluoride statement, including a warning of dental fluorosis for children under the age of six months, to be posted in a public water system’s consumer confidence report if the water supply is fluoridated. **E.D. August 4, 2012.**

***Definition of Stormwater.*** Chapter 132 (SB 265) amends RSA 149-I:6a, II to define stormwater as “surface runoff and drainage that is generated from precipitation and snowmelt, including any debris, chemicals, sediment, or other substances carried along with the water.” **E.D. August 4, 2012.**

***Extension for Certain Wetland Permits.*** Chapter 145 (HB 1636) provides that a wetland excavating and dredging permit is valid for 10 years (as opposed to the standard five years) if it is issued to repair or replace shoreline structures to maintain their integrity and safety, as long as the work complies with specified criteria. **E.D. August 6, 2012.**

***No Septic Approval Needed for Certain Construction.*** Chapter 147 (HB 1721) provides that no approval from the Department of Environmental Services is required prior to expanding, relocating, or replacing a structure that does not increase the load on a sewage disposal system, regardless of when the existing system was approved, if the structure is on a lot that is five acres or larger. **E.D. June 7, 2012.**

***Expiration and Extension of Terrain Alteration Permits.*** Chapter 148 (SB 241) provides that all terrain alteration permits issued by the Department of Environmental Services shall be valid for five years and authorizes an extension of the permit for an additional five years if the applicant meets certain criteria. In addition, the chapter provides an exception for a permit that is associated with ongoing excavation or mining; such a permit will not expire during the life of the project if the permit holder submits a written status update to the department every five years. **E.D. August 6, 2012.**

***Repair or Replacement of Septic System by Rule.*** Chapter 174 (HB 1415) provides that the repair or replacement in kind of a sewage effluent disposal area will qualify for a permit by rule if certain criteria are met. The Department of Environmental Services is to adopt rules relative to the granting of permits by rule. **E.D. June 11, 2012.**

***Prohibited Entry on Private Property.*** Chapter 202 (HB 514) requires conservation commission members to obtain permission from a private property owner before entering the property for data gathering purposes. Permission may be granted in writing or orally, but oral permission must be documented. The law also establishes a committee to study issues of entry onto private property. **E.D. June 13, 2012.**

***Definition and Designation of "Prime Wetlands" Modified.*** Chapter 235 (SB 19) makes a number of changes regarding designation of prime wetlands. Most notably, it narrows the definition of a prime wetland and eliminates state-level protection for the 100-foot buffer around a prime wetland, except in the case of those designated between August 24, 2007, and the effective date of the new law. Municipalities may still provide greater protection for the area around a prime wetland. **E.D. August 17, 2012.**

***Limitation for Non-Conforming Structures Located within Protected Shoreland.*** Chapter 276 (HB 1484) clarifies that the law allowing repair or replacement of nonconforming structures within a protected shoreland area does not allow for the enclosure, or conversion to living space, of any deck or open porch located between the primary structure and the reference line and within the waterfront buffer. **E.D. August 18, 2012.**

## **VI. PUBLIC SAFETY; POLICE; FIRE; BUILDING/HEALTH INSPECTION**

***Health Officers May Serve Temporarily in Other Municipalities.*** Chapter 15 (HB 1349) allows a town health officer to serve temporarily (30 calendar days or fewer) at the request of any other New Hampshire town and perform any lawful duties within the requesting town. All costs for such temporary services, including compensation, expenses and liability coverage, are the responsibility of the requesting town. **E.D. June 22, 2012.**

***Larger Boards Allowed for Mosquito Control Districts.*** Chapter 88 (HB 1357) allows the board of a mosquito control district to consist of up to five members, appointed for staggered terms. Under prior law, the board was limited to three members. **E.D. July 28, 2012.**

***Vandalizing State or Municipal Property Defined as Criminal Mischief.*** Chapter 133 (SB 276) amends the crime of criminal mischief to include vandalizing or defacing state or municipal property. The crime is a class A misdemeanor, and one convicted of the crime must make restitution for any damage. **E.D. January 1, 2013.**

***Infectious Disease Exposure Evaluation and Reporting.*** Chapter 152 (SB 281) ensures evaluation and treatment of good Samaritans, in the same manner as public safety and emergency response workers, in the event of exposure to infectious diseases. Separately, public safety and emergency response workers are granted immunity from civil liability arising from good-faith reports of infectious disease exposure incidents. **E.D. January 1, 2013.**

***Attorney Fees in Building Accessibility Cases.*** Chapter 197 (SB 359) provides that in an action brought by the Disabilities Rights Center (DRC) to enforce accessibility standards for public buildings under the state building code, the court may award reasonable attorney fees and costs to the prevailing party. Previously, fees and costs could be awarded only to DRC if it prevailed. **E.D. August 12, 2012.**

***Warrantless Arrests for Willful Concealment.*** Chapter 205 (HB 1184) allows peace officers, with probable cause, to make warrantless arrests for willful concealment. **E.D. January 1, 2013.**

***Notice of Building and Fire Code Appeals Process.*** Chapter 225 (HB 1480) requires officials responsible for the enforcement of building codes to provide information on the local and state appeals process when issuing a building permit or notice of violation, and requires fire officials to do the same when reviewing plans or issuing a notice of violation. **E.D. August 14, 2012.**

***Changes to State Building and Fire Codes.*** Chapter 242 (HB 137) makes numerous changes relative to the state building and fire codes. Among other things, the new law (1) incorporates the 2009 International Existing Building Code into the state building code; (2) provides that the “local enforcement agency” for the purpose of enforcing the state fire code is the local fire chief; (3) provides that whenever there is a conflict between the state building code and the state fire code, the code creating the greater degree of life safety will take precedence, and if the municipal officials cannot agree which code governs, the property owner may choose to comply with either code; (4) authorizes a municipality that has voted to enforce the state building code to contract with a third party for enforcement services in lieu of establishing the position of building inspector; and (5) revises the law governing local building code boards of appeal by authorizing them to decide appeals relative to application and interpretation of the fire code (in addition to the building code), limiting the grounds for appeal, and providing that the board has no authority to waive requirements of the state building code or fire code. **E.D. June 18, 2012.**

***Sheriff May Issue Pistol Licenses in Certain Circumstances.*** Chapter 255 (HB 1246) authorizes the county sheriff to issue pistol and revolver licenses for residents of an unincorporated place, or for residents of a town that has no police chief if designated by the selectmen. **E.D. August 17, 2012.**

***Arrest Records Subject to Right to Know Law.*** Chapter 263 (HB 1535) clarifies that arrest records are “governmental records” under the Right to Know Law and are subject to disclosure in accordance with that law. It also requires arrest records to include, at a minimum, the identity of the person arrested, the identity of the arresting officer unless the officer’s supervisor has good cause to believe that identifying the officer would not serve the public interest, a statement of the reasons for the arrest and how it was made, the alleged crime, and whether the arrest was made pursuant to a warrant. **E.D. January 1, 2013.**

## **VII. PUBLIC WORKS; ROADS AND HIGHWAYS; SPEED LIMITS; AIRPORTS; RAILS**

***Appointment of Tree Wardens Modified and Authority Expanded.*** Chapter 24 (HB 108) authorizes a city or town to provide for the appointment of a tree warden. Previously, the process required nomination by the town and appointment by the Department of Resources and Economic Development. The chapter also makes various changes to the laws regarding municipal regulation of trees and roadside growth. Among other things, the duties of examination by a tree warden now extend to the limits of town public ways, village commons, parks, cemeteries, and other public grounds. **E.D. May 2, 2012.**

***Annual Inspections for Trucks Exceeding 18,000 Pounds Gross Vehicle Weight.*** Chapter 38 (HB 1585) eliminates the semi-annual inspection requirement for trucks exceeding 18,000 pounds gross vehicle weight. These vehicles will now be subject to annual inspections. **E.D. January 1, 2013.**

***Reclassification of Province Road in Strafford.*** Chapter 45 (SB 394) reclassifies Province Road in Strafford, from the intersection of Route 202A to Ricky Nelson Road, from a class II to a class V highway upon completion of certain reconstruction to be performed by the Department of Transportation. **E.D. July 1, 2012.**

***Commission to Study Taxation of Alternative Fuel and Electric Vehicles.*** Chapter 86 (HB 1144) creates a commission to study taxation of alternative fuel and electric-powered motor vehicles “for the purpose of ensuring that all motor vehicles contribute to funding improvements to the state’s highways and bridges.” The commission is to submit an interim report of its findings and recommendations for legislation by November 1, 2012, and a final report by November 1, 2013. **E.D. May 29, 2012.**

***Setback Requirements for Junkyards.*** Chapter 108 (SB 340) provides that if a municipality has not enacted a zoning ordinance, the governing body may adopt an ordinance establishing lesser setback requirements than those required under state law for junkyards and automotive recycling yards. **E.D. July 28, 2012.**

***Wide Berth for Highway Workers and Vehicles.*** Chapter 135 (SB 315) requires drivers to give wide berth to state and local highway workers and their stationary or moving highway maintenance vehicles displaying amber warning lights. **E.D. June 5, 2012.**

***Sewer Commission Costs.*** Chapter 138 (SB 389) amends RSA 149-I:10, II by requiring that the sewer commission remit to the municipality those costs incurred by the municipality in support of sewer operations, including financial audit, facility insurance, treasurer compensation, and office support costs. The law also authorizes the board of selectmen to set the portion of the treasurer’s compensation for which the sewer commission is responsible. **E.D. August 4, 2012.**

***Contract Required for Utility Work on Customer Property.*** Chapter 178 (SB 231) provides that a municipal utility may not perform non-emergency work on facilities (such as water or sewer pipes) on customer property beyond the point of municipal responsibility unless there is a written contract with the owner, or unless the total cost of the project is \$250 or less. The contract must include the terms of the work to be performed and certain other information. No lien may be placed on the property for such work in the absence of a contract. **E.D. August 10, 2012.**

***Ten-Year Transportation Improvement Plan.*** Chapter 193 (HB 1716) adopts the State’s 2013-2022 transportation improvement plan, while adding several Interstate 93 projects and eliminating several local projects. **E.D. June 11, 2012.**

***Certification of Municipal Culvert Installers.*** Chapter 273 (SB 247) directs the Department of Environmental Services to develop a certification program for municipal culvert installers. Upon fulfillment of certification requirements, municipal public works employees may maintain, repair, replace, or modify culverts up to a maximum diameter of 48 inches without prior notification to the department, subject to certain conditions. **E.D. June 19, 2012.**

## **VIII. TAXES; ASSESSING AND COLLECTIONS; EXEMPTIONS; CURRENT USE**

***Equalized Valuation of Property Subject to Community Revitalization Tax Relief.*** Chapter 14 (HB 1302) requires the Department of Revenue Administration to include in the annual equalization valuation the value of property subject to community revitalization tax relief under RSA 79-E:4. **E.D. July 1, 2012.**



***Electronic Billing for Taxes, Water and Sewer Charges.*** Chapter 29 (HB 1224) authorizes a tax collector, with approval of the governing body, to issue bills or notices by electronic means if so requested by the taxpayer. There may be no charge for delivery of bills or notices by electronic means, nor a penalty for not choosing to receive bills or notices electronically. Any request from a taxpayer to receive bills and notices electronically must contain the physical signature of the taxpayer or an electronic signature conforming to the requirements of the federal Electronic Signatures Act. If the collector believes that bills or notices sent electronically have failed to be delivered, then a duplicate bill or notice must be mailed at no cost to the taxpayer, but this will not change the last date that taxes may be paid without penalty. **E.D. July 1, 2012.**

***Assessing Standards Board to Recommend Standards Rather than Guidelines.*** Chapter 30 (HB 1266) amends the powers and duties of the Assessing Standards Board to include recommending standards, rather than guidelines, for assessing officials. All references to “guidelines” in the applicable statute have been replaced with “standards.” **E.D. April 1, 2013.**

***Extension of Land Use Change Tax Lien Period.*** Chapter 104 (SB 255) extends the lien period for assessment and collection of the land use change tax from 18 months to 24 months following either the date on which the local assessing official receives written notice from the landowner of the change in use of current use land or the date on which the official actually discovers that the land use change tax is due and payable. **E.D. July 28, 2012.**

***Definition of Owner for Timber Tax Purposes.*** Chapter 141 (HB 1207) clarifies the definition of “owner” as it applies to joint tenants and tenants-in-common under the timber tax statute. It allows one tenant-in-common to sign an intent to cut, so long as the single signatory provides notice to all of the other tenants prior to cutting and posts a bond to ensure payment of the timber tax to the municipality. **E.D. July 1, 2012.**

***Current Use Taxation of Access Road.*** Chapter 160 (SB 395) allows land to remain in current use when a road has been constructed for the sole purpose of providing access to adjoining properties on an existing right-of-way over the current use land. **E.D. June 7, 2012.**

***Prorated Assessments on Damaged Buildings.*** Chapter 169 (SB 382) requires assessing officials to prorate the tax assessment on a building that is damaged by unintended fire or natural disaster when the building cannot be used for its intended purpose as a result of the fire or disaster. The proration is based on the number of days during the tax year that the building was available for its intended use. To protect a municipality during a large-scale natural disaster, the total tax reduction from proration is limited to one-half of one percent of the total property taxes committed in the tax year. **E.D. April 1, 2013.**

***Commercial and Industrial Tax Exemption Made Permanent, Amended.*** Chapter 186 (SB 306) eliminates the prospective repeal of the property tax exemption for commercial and industrial construction in municipalities in Coos County. It had been scheduled for automatic repeal in 2013. The chapter also requires a property owner to apply for the exemption prior to construction, and in no event later than December 31 preceding the tax year for which the exemption is sought, and requires the selectmen or assessors to notify the applicant of their decision no later than the following February 28. Previously, the application could be filed on or before March 1 preceding the tax year, with notice of the decision to be made on or before the following July 1. **E.D. June 11, 2012. See also section III.**

## **IX. WELFARE; EDUCATION; LIBRARIES; HUMAN SERVICES; HOUSING**

***Right to Know Law Applies to Certain Public Libraries.*** Chapter 96 (SB 214) clarifies that the Right to Know Law applies to any public library that has been established or accepted by a town or city. Such a library will be deemed a “public agency,” and the board of trustees a “public body,” as defined in the Right to Know Law. **E.D. July 28, 2012.**

***Reinstatement of Right to Recover Welfare Expense. Chapter 157 (SB 369)*** repeals the temporary suspension of RSA 165:20 that was enacted in 2011. The effect is to restore the right of a municipality to recover from another municipality any sums spent for the support of an assisted person having a residence in the latter municipality, or to recover assistance amounts from the relatives of a person assisted. **E.D. August 6, 2012.**

## **X. UTILITIES**

No new laws.

## **XI. EDUCATION FUNDING**

***Amendments to Education Funding Definitions. Chapter 198 (SB 401)*** amends the definition of “average daily membership in attendance” (ADMA) for purposes of the education funding formula to refer to the current school year (rather than two years prior), and amends the definition of “determination year” to refer to the immediately preceding school year (rather than the fiscal year three years prior). It also allows the Commissioner of Education to make adjustments in grant payments during the school year when necessitated by variations in a school district’s ADMA. **E.D. July 1, 2012.**

## **XII. SPECIAL ACTS**

***Portsmouth Ward Boundaries. Chapter 9 (HB 592)***, among other things, establishes ward boundaries for the City of Portsmouth. **E.D. March 28, 2012. See also section I.**

***Joseph E. Stone Highway. Chapter 22 (SB 391)*** names a portion of Route 107/43 in Deerfield the Honorable Joseph E. Stone Highway after the former Deerfield selectman and state representative (and NHMA board member). **E.D. April 23, 2012.**

***Greenland-Portsmouth Water Rights. Chapter 91 (HB 1563)*** changes the City of Portsmouth’s right (granted under prior law) to extend its system of water works into the Town of Greenland to a non-exclusive right, and requires written notice to and approval by the Greenland selectmen, except in an emergency, before Portsmouth may exercise eminent domain or perform any excavation, construction, or improvement of property for the operation of its water works in Greenland. **E.D. May 29, 2012.**

***Land Use Regulation at Pease Air Force Base. Chapter 182 (SB 259)***, among other things, extends to January 1, 2050 (from 2020), the date by which land use regulatory authority over land at Pease Air Force Base will revert to the municipalities (Portsmouth and Newington) in which the land is located. **E.D. June 11, 2012.**

### Where to Obtain Copies of 2012 Laws

**Legislators.** You should be able to contact your Representative or Senator to secure copies of new laws. There should be no charge for these copies if you request a small number.

**Online.** Access at: [http://www.gencourt.state.nh.us/bill\\_status/misc/chaptered\\_final\\_version.aspx](http://www.gencourt.state.nh.us/bill_status/misc/chaptered_final_version.aspx)

*(These chapters can be obtained at no charge).*