

LEGISLATIVE BULLETIN

Bulletin #9

2014 Session

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Senate to Vote on Road Toll (Gas Tax) Increase

The Senate Ways and Means Committee will soon be voting on **SB 367**, the bill that will increase the road toll (gas tax) for the first time since 1991, raising the current 18 cent rate by approximately four cents effective July 1, 2014. This would result in an additional \$3.8 million in highway block grant funding to municipalities beginning in July 2015 and continuing yearly thereafter. The bill ties future road toll increases to the Consumer Price Index at four-year intervals, a provision which has drawn criticism from some quarters and may be on the chopping block. However, since increasing state revenue dedicated to highway improvements in an **NHMA policy**, our primary concern is an immediate road toll increase.

It is imperative that every Senator hear from his or her municipal constituents that it is time to increase the road toll to address the state's transportation infrastructure needs.

There is broad support for increasing this user fee, including support from the Business and Industry Association, the Lodging and Restaurant Association, White Mountain Attractions, and the American Automobile Association. During the four-hour hearing on this bill, the majority of objections came from those involved in the trucking industry – those who significantly contribute to the deterioration of New Hampshire's roads.

There is no other legislative proposal on the table this year that will address the lack of sufficient funding for highway infrastructure maintenance and improvements in the near future. Some senators believe that expanded gambling is a better means of providing additional funding for highways and bridges, and municipalities certainly will accept additional revenue from any source. However, assuming the legislature passes an expanded gambling bill this year, the bidding, licensing, land use approval, and construction processes will take years. No one seriously expects to see significant gaming revenue for at least four years. Our roads and bridges can't wait that long!

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Gas Tax Increase - continued

Moreover, whether local roads and bridges would *ever* benefit from gaming revenue is far from clear. Of the five gaming bills in the legislature, three do not designate any money at all for state or municipal roads or bridges; one provides money to the Department of Transportation, but only for projects on the state's 10-year transportation improvement plan (*i.e.*, no highway block grant money); and one provides money to DOT, first to pay debt service on I-93 bonds, and then for block grants and the highway and bridge betterment program. Although NHMA has no position on the gaming bills, any suggestion that they will solve road and bridge funding problems is simply not realistic.

The "[Increased Highway Funding](#)" page on the NHMA website contains an abundance of information regarding the condition of our roads and bridges.

Please contact your [Senator](#) now and urge support of SB 367.

Support an End to the Cable Monopoly

SB 344, which would enhance municipalities' ability to provide cable service to their residents, will be heard next week in the Senate Public and Municipal Affairs Committee. Under current law (RSA 53-C:3-b), a franchise agreement between a municipality and a cable company must be non-exclusive, but "[n]o municipality shall grant any additional franchises to cable service within its jurisdiction on terms or conditions more favorable or less burdensome than those in any existing franchise within such municipality." This provision essentially holds municipalities hostage to the incumbent cable company.

If, for example, the existing franchise provides coverage to three-quarters of a town, and a new company is interested in providing service to the remaining quarter of the town, the statute arguably prohibits this, because providing service to one-quarter of the town is "less burdensome" than providing service to three-quarters of the town. Fear of violating the statute has, in fact, deterred some municipalities from entering into agreements with a second provider. Cautious municipal attorneys have advised towns that unless the new agreement is identical to the existing one in all material respects, it runs the risk of violating the statute.

SB 344 would repeal that requirement. ***NHMA supports the bill***, as it would foster competition and enable municipalities to make cable service available to residents who are currently not served. The bill is primarily supported by telephone companies (not traditional allies of NHMA!) that are trying to provide fiber-to-the-home service in their franchise areas. It is strongly *opposed* by Comcast (soon to include Time Warner), for obvious reasons. It is difficult to imagine an argument against the bill, other than the desirability of monopolies, which we hope will prove unpersuasive. Nevertheless, members of the [Public and Municipal Affairs Committee](#) need to hear from you. Please contact them to express your support for **HB 344**, and/or attend the hearing, which is scheduled for **Wednesday, March 5, at 10:15 a.m., in LOB Room 102.**

Clerks Bill Killed

HB 1266, the **NHMA policy bill** that would have allowed local voters to decide whether to have an elected or appointed town clerk, was defeated overwhelmingly on the House floor last week. By a vote of 222-64, the House adopted the committee recommendation of Inexpedient to Legislate.

Or at least that is what the official record says. The issues that were debated prior to the vote bore little resemblance to **HB 1266** which, let us repeat, was the local option bill that would have let voters decide how their clerk is selected. Purporting to describe **HB 1266**, opponents of the bill instead talked about an imaginary bill that would “allow local officials to take away the right of our citizens to elect their town clerks”; would “permit mayors and city councils or boards of aldermen to appoint ward clerks”; and would “enable city election clerks and election moderators to have residence in another city or town.” One speaker said three times that the bill would take away voters’ rights.

Based on those descriptions, we can hardly blame representatives for voting against **HB 1266**. If the bill did any of those things, we would oppose it, too.

But of course, all of those statements were untrue. Anyone who read the bill knew that it would not take away voters’ rights—it would *give* voters a right to decide whether to have an elected or appointed clerk. The claims about city ward clerks and moderators were preposterous—the bill had no effect on the statutes that require those officials to be elected.

Where, then, did these ideas come from? Unfortunately, at least a couple of the speakers—and who knows how many other legislators—were misled by an aggressive misinformation campaign waged since the bill’s hearing.

Credible opposition to the bill came from the City and Town Clerks’ Association, which lobbied hard to defeat it. Although we disagreed with their position, we have no reason to believe the information they provided was anything other than honest and accurate. The bill probably would have died because of their efforts alone; but there is no way of knowing how many additional votes were swayed by the misinformation that was provided to legislators from other sources.

Pollution Control Exemption Hearings Rescheduled

HB 1310 and **HB 1311**, both dealing with the property tax exemption for pollution control equipment under RSA 72:12-a, were scheduled for hearings before the Municipal and County Government Committee two weeks ago, but were postponed because of inclement weather. The hearings are now scheduled for **Monday, March 3, at 1:00 p.m. and 1:30 p.m.**, respectively, in **LOB Room 301**.

Pollution Control - continued

As we explained previously, **HB 1310** would turn the pollution control exemption into a local option, allowing any municipality's legislative body to terminate the application of the exemption within the municipality. **HB 1311** would limit the exemption to 25 years. NHMA policy is to support the repeal or limitation of this exemption, and *we support both bills*. See [Bulletin #7](#) for further information.

The committee is going to act very quickly on these bills—most likely the following day—so please contact members of the [committee](#) *soon* and urge them to support both bills.

Zoning Notice Bill Would Impose Excessive Costs

The Senate Public and Municipal Affairs Committee will hear testimony next week on **SB 228**, which would require that “[n]otice of a public hearing on a proposed change to the uses permitted in a district under a zoning ordinance . . . be sent by first class mail to all property owners in the district.” This would impose potentially enormous costs on municipalities.

Under current law, when there is a proposed amendment to a zoning ordinance, the planning board must hold a public hearing. It must post notice of the hearing in two public places and publish the notice in a newspaper of general circulation in the municipality. That system works well.

Under **SB 228**, if a planning board (or a group of citizens) proposes an amendment to allow any new use in a district (or disallow a currently allowed use), notice would have to be mailed to every property owner in the district. This could mean mailing dozens, or hundreds, or thousands of notices—and doing it multiple times if there are several amendments proposed in one year. And, unlike notices for hearings on subdivision, site plan, or variance applications, there would be no applicant to pay the cost of the mailing—the price would be borne by the taxpayers.

Such a requirement is unprecedented, at least in this state. Interested citizens are presumed to pay attention to potential changes in the law, and not require personal notice of every proposed amendment. If personal notice is required for zoning amendments, why not for amendments to other municipal ordinances? Does the legislature mail notice to all waterfront property owners when there is a bill to amend the shoreland protection act, or to all businesses when there is a proposed increase in the minimum wage or the business profits tax?

We do not expect this bill to get a warm reception, but if your senator is on the [Public and Municipal Affairs Committee](#), please tell him or her about your concerns. The hearing is scheduled for **Wednesday, March 5, at 9:45 a.m., in LOB Room 102**.

Get Involved in NHMA's Legislative Policy Process

As we mentioned a few weeks ago, NHMA's biennial legislative policy process is getting underway. Here are two items for your consideration:

1. Legislative Policy Proposals. It is not too early to submit legislative policy proposals. If you are a municipal official (or board) with an idea for legislation that could improve municipal government, please consider submitting a proposal.

You can download the NHMA Legislative Policy Proposal Form [here](#). A policy proposal form should accompany each proposed legislative policy. Please follow the instructions to submit the form, and note that all proposals must be submitted by April 25, 2014.

2. Policy Committees. We are currently recruiting volunteers to serve on our three legislative policy committees. These committees will review the legislative policy proposals submitted by local officials and NHMA affiliate groups and make recommendations on those policies, which will go to the NHMA Legislative Policy Conference in September.

If you are a local official in an NHMA member municipality and are interested in serving on one of the policy committees, please contact the Government Affairs staff at 800-852-3358, ext. 3408, or send us an email: governmentaffairs@nhmunicipal.org.

Each of the committees deals with a different set of municipal issues. The committees and their subject areas are as follows:

- Finance and Revenue – budgeting, revenue, tax exemptions, current use, assessing, tax collection, retirement issues, education funding.
- General Administration and Governance – elections, Right-to-Know Law, labor, town meeting, charters, welfare, public safety.
- Infrastructure, Development, and Land Use – solid/hazardous waste, transportation, land use, environmental regulation, housing, utilities, code enforcement, economic development.

When you contact us, please indicate your first and second choices for a committee assignment. We will do our best to accommodate everyone's first choice, but we do need to achieve approximately equal membership among the committees. We hope to have 15-20 members on each committee.

There will be an organizational meeting for all committees on April 7. After that, each committee will meet separately as many times as necessary to review the policy proposals assigned to it—typically three to five meetings, all held on either a Monday or Friday, between early April and the end of May.

HOUSE CALENDAR

Joint House/Senate Meetings Are Listed Under This Section

MONDAY, MARCH 3

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. Rescheduled public hearing on **HB 1196**, allowing town and cities to waive a portion of the interest due on late property tax payments in special or extraordinary circumstances.
- 10:30 a.m. Rescheduled public hearing on **HB 1171**, relative to eligibility for the veterans' property tax credit.
- 11:30 a.m. Rescheduled public hearing on **HB 1610-FN**, relative to the excavation tax.
- 1:00 p.m. Rescheduled public hearing on **HB 1310**, allowing towns and cities to terminate the application of the property tax exemption for water and air pollution control facilities within the town or city.
- 1:30 p.m. Rescheduled public hearing on **HB 1311**, relative to the exemption period for the property tax exemption for water and air pollution control facilities.
- 2:00 p.m. Rescheduled public hearing on **HB 1333**, relative to the elderly property tax exemption.
- 2:30 p.m. Rescheduled public hearing on **HB 1139**, repealing authority for granting of property tax abatements for watering troughs and shade trees.

THURSDAY, MARCH 6

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

- 11:00 a.m. **HB 1122-FN**, (New Title) relative to the filing with a registry of deeds of a fraudulent document purporting to create a lien or claim against real property.
- 11:30 a.m. **HB 366-FN**, relative to showing a ballot.

SENATE CALENDAR

TUESDAY, MARCH 4

FINANCE, Room 103, SH

- 1:15 p.m. **SB 416-FN-A**, relative to highway fund appropriations.

WEDNESDAY, MARCH 5

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

- 9:30 a.m. **SB 374**, establishing a commission to review and make recommendations to standardize and make uniform the definitions of "domicile" and "residency" in state statutes.
- 9:45 a.m. **SB 228**, relative to notice of changes to zoning and historic districts.
- 10:15 a.m. **SB 344**, relative to New Hampshire cable franchises.

New Senate Bill

SB 416-FN-A, prohibits certain allocations of highway funds to the judicial branch, the department of justice, and the office of the commissioner and division of administration within the department of safety, and establishes a committee to study methods of maintaining highway fund integrity. Sen. Bradley of Wolfeboro; **F-S**.

HOUSE FLOOR ACTION

Wednesday, February 19, 2014

HB 1204-FN, relative to perjury by a law enforcement officer. **Interim Study**.

HB 1237, prohibiting residency restrictions for registered sex offenders and offenders against children. **Ought to Pass**.

HB 1245, relative to municipal lease agreements for certain equipment. **Ought to Pass**.

HB 1246, relative to the composition of public agency boards concerning housing standards. **Ought to Pass**.

HB 1259, relative to the functions of the municipal associations. **Inexpedient to Legislate**.

HB 1261-FN-L, increasing the fee charged for delivery of notice of civil forfeiture of an unlicensed dog. **Ought to Pass**.

HB 1266, relative to the appointment of the town clerk. **Inexpedient to Legislate**. **NHMA Policy**.

HB 1268, relative to the purposes of town by-laws. **Inexpedient to Legislate**.

HB 1320, relative to incompatibility of town offices. **Ought to Pass**.

HB 1337, relative to authority for removal of political advertising. **Interim Study**.

HB 1340, exempting septic systems from certain requirements where there are grouted wells. **Inexpedient to Legislate**.

HB 1347, establishing a house committee to study apportionment of state representative districts. **Ought to Pass with Amendment**.

HB 1368-FN, relative to inquiries into criminal records on employment applications. **Ought to Pass with Amendment**.

HB 1405, prohibiting an employer from using credit history in employment decisions. **Ought to Pass with Amendment**.

House Floor Action - continued

HB 1407, relative to privacy in the workplace. **Ought to Pass.**

HB 1461, relative to prohibited coercion of political contributions. **Interim Study.**

HB 1479-L, relative to membership in municipal organizations. **Inexpedient to Legislate.**

HB 1489-FN-A-L, establishing a fund to reimburse costs associated with firefighters who have heart, lung, and cancer disease and continually appropriating a special fund. **Ought to Pass with Amendment.**

HB 1498-FN, relative to wages lost when an employee submits to a medical examination required under workers' compensation law. **Ought to Pass with Amendment.**

HB 1506, relative to student identification cards used to satisfy voter identification requirements. **Inexpedient to Legislate.**

HB 1547, authorizing voters to remove their names from the checklist. **Inexpedient to Legislate.**

HB 1554, relative to notice of water release from dams. **Inexpedient to Legislate.**

HB 1559-FN, establishing a New Hampshire state house bicentennial commission and fund. **Ought to Pass.**

HB 1563-FN, granting group II retirement system status to certain positions in the department of corrections. **Interim Study.**

HB 1592-FN, relative to requiring prevailing wages on state-funded public works projects. **Interim Study.**

HB 1605-FN, relative to audit recounts. **Interim Study.**

SENATE FLOOR ACTION

Wednesday, February 19, 2014

SB 201, relative to marriage registration forms. **Ought to Pass with Amendment.**

SB 214, relative to immunity from civil liability for sports officials. **Inexpedient to Legislate.**

SB 252, relative to the management of hazardous waste. **Laid on Table.**

Senate Floor Action - continued

SB 265, making a technical correction to the disposition of meals and rooms tax revenues. **Ought to Pass.**

SB 339-FN, authorizing the department of administrative services to contract for a credit card affinity program in which fees received are directed to offset the retirement system's unfunded liability. **Ought to Pass with Amendment.**

SB 350, relative to the transfer of average daily membership information from the department of education to the department of revenue administration. **Ought to Pass with Amendment.**

SB 363, relative to insurance coverage for facilities for the Winnepesaukee River basin control. **Ought to Pass.**

SB 386, relative to the authority and duties of the department of revenue administration. **Ought to Pass with Amendment.**

SB 392, establishing a commission to study rural affairs. **Ought to Pass with Amendment.**

SB 401-FN-A, establishing road toll fees for electric and hybrid electric vehicles. **Interim Study.**

SB 410-FN-L, relative to apportionment in cooperative school districts with a renewable generation facility. **Laid on Table.**

NHMA Webinars

Conflicts of Interest

Date: March 18, 2014

Time: 12:00 PM - 1:00 PM

Contact Phone: 603.224.7447

Join us on **Tuesday**, March 18 at noon!

Join Staff Attorneys Paul Sanderson and Christine Fillmore for a look at conflicts of interest. The webinar will include an explanation of what a conflict of interest really is, the mechanics of recusal when a conflict exists, the differences between legislative and judicial decisions (and how that affects court decisions), specific examples of situations in which conflicts arise, local conflicts ordinances, and the role of alternate members.

This webinar is open to members of the NH Municipal Association.

Register Today!

NHMA Webinars

Improving Town Websites for Voters and Officials

Date: March 26, 2014

Time: 12:00 PM - 1:00 PM

Contact Phone: 603.224.7447

Join us on Wednesday, March 26 at noon!

Hosted by NHMA's staff attorney Christine Fillmore, join the League of Women Voters of New Hampshire for a webinar demonstrating how town and city websites can better serve voters and potential voters. The League will suggest a template for organization and access to voting and election information.

Speakers include Liz Tentarelli, Co-President, and Nancy Marashio, board member, of the League of Women Voters of New Hampshire.

The webinar is open to members of the NH Municipal Association and is of interest to officials and employees involved in elections and those with decision-making authority regarding municipal websites. Note: **This webinar ONLY is also open** to members of the League of Women Voters and to members of the New Hampshire legislature.

Register Today!