

LEGISLATIVE BULLETIN

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2014 Session

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INSIDE THIS ISSUE:

<i>Pension Changes</i>	2
<i>Agritourism Bill</i>	3
<i>Paint Stewardship</i>	4
<i>House/Senate Calendars</i>	4
<i>House Floor Action</i>	5
<i>Senate Floor Action</i>	6
<i>NHMA Webinars</i>	8

An Important Week

There are very few committee hearings next week, as the House and Senate will be meeting in session to take final action on many bills in advance of their upcoming deadlines. The House will have full session days on Wednesday and Thursday, and the Senate will be in session on Thursday.

Meanwhile, we assume everyone knows what Tuesday is. In honor of town meeting day, there will be no activity in the House on Tuesday. We wish everyone a successful and productive town meeting.

Road Toll (Gas Tax) Increase Passes First Senate Hurdle

On Tuesday the Senate Ways and Means Committee voted 4-1 to recommend Ought to Pass on an amended version of **SB 367, an NHMA policy bill**, dealing with the road toll (gas tax) increase. The amended version removes the sections of the original bill that tied future road toll increases to the Consumer Price Index at four-year intervals. As amended, the bill would increase the current road toll of 18 cents per gallon of gas by approximately four cents, effective upon passage, raising an additional \$32 million each year for highway infrastructure maintenance and improvements. Municipalities would receive 12 percent of this additional funding, approximately \$3.8 million in additional highway block grant funding each year.

As indicated in last week's *Bulletin*, **this is the only bill currently in the legislature** that would provide an **immediate increase** in revenues to the state's highway fund and additional highway block grant funding to municipalities. Without this increase, money for necessary road and bridge maintenance and improvements will have to come from property taxes.

For a person driving 15,000 miles per year with a vehicle averaging 25 miles per gallon, this four-cent increase would cost less than 50 cents a week – less than a pack of gum! And that assumes the entire increase is passed onto the consumer at the gas pump, which may not even be the case.

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Gas Tax Increase - continued

The "[Increased Highway Funding](#)" page on the NHMA website contains an abundance of information regarding the condition of our roads and bridges -- overwhelming justification for an immediate increase in the road toll.

SB 367 will go to the full Senate for a vote next Thursday, March 13. 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. If you have not yet done so, please contact your [senator](#) before next Thursday's Senate session and urge support of SB 367!

Committee Narrowly Rejects Pension Changes

On Wednesday the Senate Executive Departments and Administration Committee voted 3-2 to recommend Inexpedient to Legislate on **SB 364**, which would mandate an employer-funded defined contribution plan (in addition to the existing defined benefit plan) for newly hired employees and teachers, and expand pension benefits for newly hired police and firefighters. As explained in [Bulletin #8](#), the actuarial estimate of the cost to employers for this proposal was \$81 million over the next five years, with the costs increasing down the road as more "new" employees, teachers, and public safety workers are hired.

As we expected, there was an attempt to make the bill less costly for employers by eliminating the defined contribution plan for employees and teachers, and amending the bill so that it provided only the increased pension benefits to newly hired police and firefighters, reversing one of the pension reforms enacted in 2011. That still would cost employers an additional \$2.3 million over the next few years. Fortunately, a majority of the committee members recognized that the pension reform measures enacted in 2011, particularly those measures that affected new hires only, were approved after extensive deliberation and analysis. Additionally, as we pointed out during our testimony on the bill, current law requires establishment of a decennial retirement commission on July 1, 2017, comprising members from all stakeholder groups, to study *all* aspects of the New Hampshire Retirement System, including funding, benefits, investment results, structure, governance, and any other matters deemed necessary by the commission. Some committee members rightly expressed concern that the constant "tweaking" in the past is what caused many of the problems the retirement system now faces, and that any changes should be addressed through the comprehensive review process to be undertaken by the decennial commission in a few years.

Despite the committee recommendation of ITL and the reasonable approach of addressing changes through the decennial commission, there may be amendments offered on the Senate floor to expand pension benefits while attempting to make the additional costs to employers seem more palatable (as if retirement costs aren't high enough) and to overturn the committee recommendation.

The full Senate will act on SB 364 next Thursday, March 13. Please urge your [senator](#) to support the committee recommendation of Inexpedient to Legislate.

Agritourism Bill Would Thwart Local Zoning

The Senate Energy and Natural Resources Committee will hear testimony next week on **SB 354**, relative to the definition of “agritourism.” Although a bill that merely defines one word may seem innocuous enough, this one would create a hole the size of a barn in local land use authority.

The bill defines agritourism as “attracting members of the general public to a working farm for recreational, entertainment, or educational purposes, and to view or enjoy activities and attractions in the farm’s rural environment.” A working farm is defined as “any parcel or parcels of land totaling at least 10 acres that can demonstrate a minimum of \$5,000 in agricultural-related gross income in at least 3 of the 5 prior years.”

Among the uses that are expressly included within the bill’s definition of agritourism are wineries, temporary camping sites, “on-farm entertainment including barn dances, theatrical, or musical performances and concerts,” and “making the facilities available for on-farm picnics, reunions, weddings, parties, meetings, or retreats.”

All of that would mean little, except that the bill also includes “agritourism” within the statutory definition of “agriculture.” As those in the planning and zoning community know, agriculture has a preferential status under the land use statutes. Agricultural uses are deemed to be permitted in any zoning district unless they are specifically prohibited or restricted, and the expansion of existing agricultural uses must be permitted, subject to some limitations.

The existing protections for agriculture are designed to preserve New Hampshire’s rural character, which is not controversial. However, it is a far different matter to extend this favored treatment to anyone who can demonstrate a minimal amount of agriculture-related income on a 10-acre lot and wants to use the property for concerts, parties, and wedding receptions. This is a significant change that would seriously undermine local authority.

We understand that the bill is not supported by the New Hampshire Farm Bureau Federation or the state Department of Agriculture—both of which obviously have an interest in promoting agriculture.

The hearing is scheduled for **Wednesday, March 12, at 9:45 a.m., in LOB Room 101**. If you have concerns about this bill, please express them to your senator or to members of the [Energy and Natural Resources Committee](#).

Paint Stewardship Program

The House will vote next week on **HB 1570**, establishing a “paint stewardship program” under which a nonprofit organization approved by the state would dispose of unused paint collected at specified locations throughout the state, which may include municipal transfer stations and retail stores. The program would be funded by a mandatory fee on all paint sold within the state, and all manufacturers of paint sold in the state would be required to participate in the program.

NHMA supports this bill, as it would significantly reduce the amount of paint disposed of as trash at municipal solid waste facilities and “hazardous waste days.” We have heard from a number of municipalities that expect to save thousands of dollars every year as a result of these reductions. Similar programs are operating, or will be soon, in Maine, Vermont, Rhode Island, and several other states. Please encourage your representatives to support the committee’s recommendation of Ought to Pass with Amendment.

HOUSE CALENDAR

There are no House hearings on bills of municipal interest.

SENATE CALENDAR

TUESDAY, MARCH 11

COMMERCE, Room 101, LOB

2:10 p.m. **HB 350**, prohibiting discrimination against the unemployed.

WEDNESDAY, MARCH 12

ENERGY AND NATURAL RESOURCES, Room 101, LOB

9:00 a.m. **SB 267**, extending the effective date for integrated land development permits.

9:15 a.m. **SB 388**, establishing a committee to study the current status of land conservation in New Hampshire and the state’s role in encouraging voluntary protection of land in the future.

9:45 a.m. **SB 354**, relative to the definition of “agritourism.”

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, SH

9:00 a.m. **SB 399**, relative to competitive bidding and procurement by state agencies.

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

9:30 a.m. **HB 1371**, relative to grading and improving subdivision streets.

9:50 a.m. **HB 1124**, relative to the adoption of zoning ordinances in towns that use official ballot voting.

10:15 a.m. **HB 1109**, relative to providing notice to abutters of a petitioned warrant article to discontinue a class VI road.

10:30 a.m. **HB 466-FN**, relative to determining qualifications of voters.

11:00 a.m. **HB 114**, relative to abutter access over subdivided land.

HOUSE FLOOR ACTION

Wednesday, March 5, 2014

Thursday, March 6, 2014

HB 1126, establishing a committee to study alternative public employee retirement plans. **Inexpedient to Legislate.**

HB 1131, relative to the appointment of an immediate family member of a selectman to fill a vacant town office. **Inexpedient to Legislate.**

HB 1145, relative to the proposed Sewalls Falls Bridge in the city of Concord. **Ought to Pass with Amendment.**

HB 1153-FN, allowing public bodies or agencies to require a deposit for right-to-know requests. **Inexpedient to Legislate.**

HB 1156-FN-L, making certain changes to the right-to-know law. **Ought to Pass with Amendment.**

HB 1248, relative to the acceptance of risk in outdoor recreational activities. **Ought to Pass.**

HB 1249, relative to refunds of the road toll paid by a governmental entity using a credit card. **Ought to Pass with Amendment.**

HB 1297, relative to workforce housing grants. **Inexpedient to Legislate.**

HB 1302, relative to certain driveway permits. **Inexpedient to Legislate.**

HB 1304, relative to the storage of fluorescent lamps at transfer stations. **Inexpedient to Legislate.**

HB 1306-FN, prohibiting a law enforcement officer from soliciting another person to participate in criminal activity. **Inexpedient to Legislate.**

HB 1338, relative to appointment of inspectors of election by selectmen. **Inexpedient to Legislate.**

HB 1345-FN, relative to forfeiture of items used in connection with a drug offense. **Inexpedient to Legislate.**

HB 1361, prohibiting law enforcement agencies from using a drone to collect evidence. **Inexpedient to Legislate.**

HB 1363-L, relative to insurance pools. **Interim Study.**

HB 1365, permitting certain vehicles to proceed through an intersection after stopping for a red light. **Inexpedient to Legislate.**

House Floor Action - continued

HB 1366, relative to exemptions from seasonal weight restrictions on roads. **Inexpedient to Legislate.**

HB 1409, expanding the law against discrimination to prohibit housing discrimination against recipients of rental assistance and victims of domestic violence, sexual assault, or stalking. **Laid on Table.**

HB 1435, requiring law enforcement officials to disclose specific information relating to a police checkpoint. **Ought to Pass with Amendment.**

HB 1450, extending the right-to-know law to certain corporations entering into contracts with municipalities for the purpose of operating a business improvement district. **Inexpedient to Legislate.**

HB 1470, relative to quorums for meetings under the right-to-know law. **Inexpedient to Legislate.**

HB 1533-FN, requiring a warrant to search information in a portable electronic device. **Ought to Pass with Amendment.**

HB 1543, relative to filing for state representative special elections. **Ought to Pass with Amendment.**

HB 1544, relative to special election ballots. **Ought to Pass.**

HB 1545, relative to voting booths. **Ought to Pass.**

HB 1550, permitting the audio and video recording of a public official while in the course of his or her official duties. **Interim Study.**

HB 1573-FN, discontinuing regional planning commissions and requiring the election of municipal planning board members. **Inexpedient to Legislate.**

HB 1599, relative to employment protection for victims of domestic violence. **Interim Study.**

SB 223, authorizing municipalities to enter into contracts for the private funding and repayment of construction of sewer systems. **Ought to Pass with Amendment.**

SENATE FLOOR ACTION

Thursday, March 6, 2014

SB 206-FN, relative to proof of identity by voters. **Ought to Pass with Amendment.**

SB 220-FN, relative to the regulation of electricians by the electricians' board. **Ought to Pass.**

Senate Floor Action - continued

SB 276, relative to notifying a UOCAVA voter of an invalid absentee ballot application. **Ought to Pass.**

SB 277, relative to absentee voter registration. **Ought to Pass.**

SB 280, relative to absentee voters. **Ought to Pass.**

SB 297, relative to apportionment of damages. **Interim Study.**

SB 347, relative to municipal enforcement of land use ordinances. **Ought to Pass with Amendment.**

SB 390, relative to protection of employees who are victims of domestic abuse, sexual assault, stalking, or criminal harassment. **Ought to Pass with Amendment.**

SB 395-FN, relative to the retirement classification of the director of the division of forests and lands. **Ought to Pass.**

NHMA Webinar

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 Webinar

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!