

LEGISLATIVE BULLETIN

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Good-Bye and Hello

This week marked the end, or in some cases just a short suspension, of public service for many selectmen, moderators, town clerks, treasurers, tax collectors, land use board members, and other local officials. We thank all of you for the time and energy you have devoted to public service, including your work on behalf of NHMA. For those who have never served in local government, it is difficult to appreciate how much work and time are involved, and how thankless the task can be. We hope you will enjoy your time off.

Meanwhile, we enthusiastically welcome all of the new officials. We look forward to working with you in the coming years. Please be sure to let us know the e-mail addresses of the new officials in your town who should be receiving the *Legislative Bulletin*, so we can provide them with the latest legislative news. You can e-mail address changes to governmentaffairs@nhmunicipal.org.

Some who are new to local government may not fully appreciate the extent to which state legislation affects what happens at the local level—but you will learn quickly. We hope you will read the *Legislative Bulletin*, get to know your legislators, think about what you can do to influence state policy, and let us know when you have questions or ideas.

Right-to-Know Change Would Choke Town Government

An alarming amendment to the Right-to-Know Law, narrowly approved by the House Judiciary Committee last week, will go to the House floor **next Wednesday, March 19**. As amended, **HB 1591** would require the posting of notice *and an agenda* at least 72 hours in advance of any meeting of a public body, except in an emergency. Current law requires 24 hours' notice, and does not require an agenda. The amendment barely passed, 9-8.

This would create a problem for many municipalities, but especially for the nearly 100 small towns that have no town manager or administrator,

Right-to-Know - continued

in which executive decisions can legally be made only at a duly called meeting of the selectmen. In those towns, this amendment would require that every discussion and decision, no matter how important or how trivial, be delayed at least three days unless it can credibly be characterized as an emergency.

The change is actually worse than it seems. If the three-day period includes a Sunday, it becomes a four-day period, because Sundays are excluded from the calculation.

Probably more troubling than the notice requirement is the agenda requirement. If an agenda must be posted with the notice, a public body presumably will not be able to consider any items that have come up in the three (or four) days preceding the meeting. (Because the overwhelming majority of local governing bodies have their regular meetings on Monday, Tuesday, or Wednesday, the blackout period will be four days in most cases.) If a citizen comes to the board with a complaint on the night of the meeting, would the board have to defer it until the next meeting?

These unfortunate results might be avoided if the board is permitted to discuss and decide items that are not on the agenda, perhaps using an “any other business” provision—but nothing in the amendment indicates that this would be permitted. The amendment suggests a failure to appreciate how small-town government works. In many towns, selectmen *themselves* don’t see an agenda until a day or two before the meeting—because, of course, the exigencies of small-town government do not allow for finalizing an agenda four days in advance.

No problem was cited to explain the need for this change. In arguing for the amendment, the sponsor told the Judiciary Committee that “about half” of the states require at least 72 hours’ notice. There is a grain of truth to that statement, but it certainly is not the whole story.

We checked the law in all 50 states. In a number of states (we counted 16), a public body is required to publish, usually at the beginning of the calendar year, a schedule of its *regular* meetings for the year. In addition, nine states require 72 hours’ notice or more for *regular* meetings. Of the remaining 25 states, three require 48 hours’ notice, nine (including New Hampshire) require 24 hours, and 13 merely require “reasonable” or “adequate” notice or some variation thereof.

Regular meetings, however, are not the issue. Requiring public bodies to publish a schedule of regular meetings would not be objectionable—many, if not most, local boards do this already. The issue is *special* meetings, which typically are called when issues arise outside the regular schedule.

For special meetings, only *five* states (and none in New England) require 72 hours’ notice or more. The overwhelming majority—38 states—either require 24 hours or less (24 states, including New Hampshire) or require “reasonable” or “adequate” notice or some variation (14 states). Clearly, New Hampshire’s current law is well within the mainstream; **HB 1591** would move it to the fringe.

Right-to-Know - continued

Ironically, one place where a 72-hour requirement probably *would* work is in the state legislature, which deals only with legislative matters (by definition) and does not perform the everyday executive functions of government. However, as the amendment's sponsor assured the Judiciary Committee, the amendment would not apply to legislative committees, and would primarily affect municipalities.

At what point does it become intolerable for the legislature to subject cities and towns to unworkable requirements that it would never consider applying to itself? ***Please contact your representatives before Wednesday and urge them to oppose HB 1591.*** If you need further information, please contact the Government Affairs staff.

Road Toll Increase Passes Senate

On Thursday, with virtually no discussion, the Senate voted 14-9 to pass **SB 367**, as amended by the Senate Ways and Means Committee, which will raise the road toll (gas tax) by approximately 4.2 cents beginning July 1, 2014. This will be the first road toll increase in 23 years and has been the subject of lengthy debate in the legislature over the past few years. This **NHMA policy bill** will provide approximately \$3.8 million per year in additional highway block grant funding to municipalities for local roads and bridges. The bill will also fund an additional \$32 million each year to the Department of Transportation for reconstruction, resurfacing or replacement of state-owned roads and bridges. The bill now heads to the Senate Finance Committee for a hearing next **Thursday, March 20 at 9:00 in State House Room 103**, and it will be up for another Senate vote after that committee's review.

For those of you whose Senators voted in favor of **SB 367**, please be sure to thank them for their support. (As of this writing, the roll call is not available on the legislature's website, but when it is posted, you should be able to find it on the docket for **SB 367**. Click on "roll calls" on the left side.)

For those of you whose Senators did **not** support **SB 367**, please let them know the importance of this increased funding, not only for your own municipality but for the entire state, since few citizens confine their travels to within the borders of their own home town! There will be another opportunity down the (bumpy) road for them to vote to address the deteriorating condition of state and local roads and bridges. Please urge them to do so!

Senate Narrowly Rejects Pension Changes

On Thursday the Senate voted 12-11 along party lines to uphold the committee recommendation of Inexpedient to Legislate on **SB 364**, the bill that proposed to create a supplemental defined contribution plan for Group I members (employees and teachers) hired since January 1, 2012, and increase the pension formula for

Pension Changes - continued

Group II members (police and fire) hired since that same date. As explained in *Legislative Bulletins* [#7](#), [#8](#) and [#10](#), these increased pension benefits would have been funded entirely by employers, costing an estimated \$81 million in fiscal years 2014-2018, with that cost increasing over time as more new hires came on the payroll.

Supporters of the bill argued that the pension reform measures enacted in 2011 for new hires tipped the scales too far in terms of benefit changes, stating that 25 years from now when today's newly hired public safety workers retire, their pensions will be so inadequate that they will be forced to seek public assistance. One senator suggested it was unfair that "some of them will be making less in retirement than they're making on the job." It was stated that the *average* New Hampshire Retirement System (NHRS) pension is approximately \$19,000. While this number is in fact true since it includes individuals who retired 20 or 30 years ago, the average pensions for those retiring more recently are quite different. A document prepared last year by NHRS for a House committee reported the average pensions for those who retired in 2012 as follows:

Employees	\$ 13,603	Police	\$ 52,910
Teachers	\$ 25,882	Fire	\$ 58,126

The group II numbers appear to be well above the limits for public assistance.

Senators who voted to kill the bill spoke at length about the difficult decisions regarding benefits for new hires that had to be made in 2011 in order to address the long-term viability of the pension system, and that those changes are just now coming to fruition in terms of curbing the exorbitant increases in both employer rates and the unfunded liabilities. Senators were reminded that pension costs to "employers" really mean costs to "property taxpayers."

Senators were also reminded that the unions had *supported* the pension changes for new hires that were enacted in 2011. One senator read a transcript from the 2011 Senate hearing, quoting the president of the Professional Fire Fighters of New Hampshire who had testified in support of the changes that affected new hires. Finally, several senators opined that the decennial commission that will be convened in 2017 to review all aspects of the NHRS is the appropriate venue to explore and evaluate any future changes to public employee pension benefits.

Good News/Bad News

There is a lot to keep up with as the House and Senate approach the crossover deadline. Here are a few of the highlights and lowlights from the last two weeks:

Right-to-Know Law. Although **HB 1591** (see article above) is cause for concern, the House did pass a bill that makes some positive changes to the Right-to-Know Law. **HB 1156** as introduced had all kinds of problems, but it was amended to delete the troubling provisions and instead make some helpful changes to the law's

Good News/Bad News - continued

section on non-public sessions. These include allowing a non-public session to consider written legal advice, and allowing non-public consideration of claims or litigation filed *by* a public body (not just *against* the public body). The bill also creates a Right-to-Know Law oversight commission to study and recommend changes to the law. The bill still has to go to the Senate.

Pollution Control Exemption. The House has killed one bill, **HB 1310**, that would have limited the property tax exemption for pollution control equipment, and is about to kill another, **HB 1311**. Limiting or repealing this exemption is an **NHMA policy**. The lack of progress on this issue is baffling. The argument seems pretty compelling to us—the state should not be forcing municipalities to subsidize businesses—but clearly our message needs some refinement, as the Municipal and County Government Committee rejected both bills by 17-0 votes. In the words of Brooklyn Dodger fans everywhere, wait ‘til next year!

Agritourism. We expressed concern last week about **SB 354**, which would greatly expand the definition of “agritourism” and give it protected status under zoning law. Fortunately, the bill’s proponents saw that it had little support and asked the committee to send it to Interim Study. We expect the Senate to accept this recommendation, meaning the bill will be effectively dead for this year.

Cable Franchises. The Senate also sent to Interim Study **HB 344**, which would have repealed the statute that prohibits a municipality from entering into a cable franchise agreement with a second cable provider on terms more favorable than those granted to an existing provider.

Certification for Building Officials. The Senate this week passed **SB 315**, which establishes a board of building officials and requires all municipal building officials to be certified by the board. We have expressed concerns about this bill because of the cost to municipalities, but we have heard both support and opposition from local officials. If you have an opinion on the bill, please let us know as soon as possible so we can have a clear position when the bill goes to the House.

Apportionment of Damages. With thankful little fuss, the Senate Judiciary Committee recommended Interim Study for **SB 297**, which would have changed the rules with respect to apportionment of damages in personal injury actions involving more than one defendant. The Senate approved that recommendation last week, so that is one less battle to worry about.

Congress Accomplishes Something!

The U.S. House of Representatives yesterday passed **H.R. 3370**, known as the Homeowner Flood Insurance Affordability Act of 2014. The bill contains **measures to slow the skyrocketing flood insurance premium rate increases** for some properties called for by the Biggert-Waters Act of 2012. Biggert-Waters, which was intended to ensure the solvency of the deeply indebted National Flood

Flood Insurance - continued

Insurance Program (NFIP), required FEMA to adjust flood insurance premiums to reflect true flood risk and phase out subsidies for properties built before communities adopted their first Flood Insurance Rate Map (FIRM).

Today, businesses and homeowners in 22,000 communities in all states and territories have made plans and investments based on the existence of affordable flood insurance. Implementation of Biggert-Waters resulted in drastically increasing flood insurance premiums for some homeowners and businesses due to the phase-outs of subsidized premium rates. The rate increases affect local real estate markets, banks and mortgage companies, residents on fixed incomes, and policyholders, who built their communities with the best available information. All of this has the potential for serious impacts on municipalities.

H.R.3370 will delay the implementation of rate increases until FEMA completes an affordability study and proposes a draft affordability framework for Congress to consider. The version passed by the House is the same as the Senate version, so the bill will now go to the President for signature.

Submit Your Legislative Policy Proposals!

In April NHMA will begin its legislative policy process for the 2015-16 biennium. While the next legislative session may seem far away, now is the time to think of things about your municipal responsibilities that might work better with a legislative change.

Could you do your job better if a statute were changed? Have you received citizen complaints that you couldn't address because you needed legislative authority? Are there outdated provisions in the law that need to be modernized or streamlined? Please let us know.

NHMA's legislative policy committees guide its legislative policy development. The committees will hold their organizational meeting on Monday, April 7. The committees will review legislative policy proposals submitted by municipal officials and make policy recommendations for consideration at the NHMA Legislative Policy Conference on September 26.

If you have a policy suggestion, please send it in soon. Policy proposals may be submitted by a board or a local official from a member municipality.

A [policy proposal form](#) should accompany each proposed legislative policy. It should include a brief (one- or two-sentence) policy statement, a statement about the municipal interest served by the proposal, and an explanation that describes the nature of the problem or concern and discusses the proposed action that is being advocated to address the problem.

Policy Proposals - continued

To submit a legislative policy proposal, download the [2015-2016 Legislative Policy Proposal Form](#) from our website and submit it to the email address below.

Alternatively, contact the Government Affairs staff to request a printed policy proposal form by calling 800-852-3358, ext. 3408. Paper forms may be mailed, faxed, or scanned to:

New Hampshire Municipal Association
 25 Triangle Park Drive
 Concord, NH 03301
 Fax: 603-415-3090
 E-mail: governmentaffairs@nhmunicipal.org

*Policy proposals are due by **April 25, 2014**.*

HOUSE CALENDAR

There are no House hearings on bills of municipal interest.

SENATE CALENDAR

TUESDAY, MARCH 18

TRANSPORTATION, Room 103, LOB

1:30 p.m. **HB 684**, relative to bridge replacement and rehabilitation and bridge aid funds.

WEDNESDAY, MARCH 19

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

10:00 a.m.. **HB 1320**, relative to incompatibility of town offices.
 10:15 a.m. **HB 1245**, relative to municipal lease agreements for certain equipment.
 10:30 a.m. **HB 297**, relative to the management of trust funds and capital reserve funds and pertaining to library trustees.

THURSDAY, MARCH 20

FINANCE, Room 103, SH

9:00 a.m.. **SB 367-FN-A**, requiring adjustment of the road toll according to changes in the Consumer Price Index.

HOUSE FLOOR ACTION

Wednesday, March 12, 2014

Thursday, March 13, 2014

HB 1102, relative to membership of the police standards and training council. **Ought to Pass with Amendment.**

HB 1134, permitting municipalities to reimburse persons who assist applicants in obtaining social security benefits. **Inexpedient to Legislate.**

HB 1151, establishing a committee to study the solid waste operator training program and financial assurance for corrective action at solid waste landfills. **Ought to Pass.**

HB 1152, terminating the benefit program for call, substitute or volunteer firemen administered by the New Hampshire retirement system. **Ought to Pass with Amendment.**

HB 1155-FN, relative to state retiree health coverage premium contributions. **Inexpedient to Legislate.**

HB 1195, establishing a commission to study the impacts of the property tax on New Hampshire's residents, businesses, municipalities, and the economy. **Ought to Pass with Amendment.**

HB 1225, adding the choice of "none of the above" to state election ballots. **Inexpedient to Legislate.**

HB 1271, establishing a committee to study the powers and duties of conservation commissions. **Interim Study.**

HB 1295, relative to the definition of livestock. **Ought to Pass with Amendment.**

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. **Inexpedient to Legislate. NHMA Policy.**

HB 1333, relative to the elderly property tax exemption. **Ought to Pass with Amendment.**

HB 1336, relative to the landlord's agent requirement. **Ought to Pass with Amendment.**

HB 1344, relative to the disposal of sharps waste by retail establishments. **Interim Study.**

Floor Action - continued

HB 1362-FN, prohibiting enforcement of any federal law which bans certain firearms or limits firearm magazine size and establishing a criminal penalty for such enforcement. **Inexpedient to Legislate.**

HB 1382, defining “farm stand.” **Interim Study.**

HB 1398-FN, allowing the retirement system to make payments in lieu of payments to estates in certain instances. **Ought to Pass.**

HB 1399 FN, relative to the application for a vested deferred retirement allowance in the retirement system. **Laid on Table.**

HB 1403-FN, establishing a state minimum hourly wage. **Ought to Pass.**

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. **Ought to Pass with Amendment.**

HB 1456, relative to the issuance of certificate for energy facilities by the site evaluation committee. **Inexpedient to Legislate.**

HB 1460, relative to the date of appointment of inspectors of election. **Ought to Pass.**

HB 1566-FN, relative to warrant requirements. **Interim Study.**

HB 1567-FN, requiring a warrant to obtain electronic device location information. **Ought to Pass with Amendment.**

HB 1570-FN, establishing a paint stewardship program. **Laid on Table.**

HB 1572-FN, establishing a commission to create a New Hampshire state plan for Alzheimer’s disease and requiring certain training and education programs regarding Alzheimer’s disease and other related dementia. **Ought to Pass with Amendment.**

HB 1609-FN, relative to forfeiture of personal property. **Inexpedient to Legislate.**

HB 1619-FN, prohibiting the acquisition, collection, or retention of certain information **Ought to Pass with Amendment.**

HB 1620-FN, relative to the use of drones. **Ought to Pass with Amendment.**

HB 1626-FN-A-L, establishing up to 6 gambling establishments in the state and a gaming oversight authority and continually appropriating a special fund. **Inexpedient to Legislate.**

Floor Action - continued

HB 1627-FN-A-L, relative to video lottery and table gaming. **Inexpedient to Legislate.**

HB 1628-FN-A-L, relative to games of chance and establishing a gaming regulatory commission and video lottery gaming. **Inexpedient to Legislate.**

SENATE FLOOR ACTION

Thursday, March 13, 2014

SB 203, relative to permissible uses of electronic benefit transfer (EBT) cards. **Ought to Pass with Amendment.**

SB 204-FN, relative to medical conditions covered by workers' compensation. **Ought to Pass with Amendment.**

SB 207-FN, relative to paycheck equity. **Ought to Pass with Amendment.**

SB 218-FN-L, relative to group I retirement system membership for all members hired on or after July 1, 2014. **Inexpedient to Legislate.**

SB 286, relative to abatements for prior years' property taxes. **Ought to Pass with Amendment.**

SB 295, prohibiting an employer from using credit history in employment decisions. **Ought to Pass with Amendment.**

SB 300, allowing municipalities to calculate and set annual property tax rates for the municipality. **Ought to Pass with Amendment.**

SB 315-FN, establishing the board of building officials. **Ought to Pass with Amendment.**

SB 327-FN, relative to economic revitalization zone tax credits. **Ought to Pass.**

SB 344, relative to New Hampshire cable franchises. **Interim Study.**

SB 364-FN, relative to group II service retirement allowances and relative to establishing a supplemental savings plan in the retirement system. **Inexpedient to Legislate.**

SB 367-FN-A, requiring adjustment of the road toll according to changes in the Consumer Price Index. **Ought to Pass with Amendment.**

SB 376, requiring pooled risk management governing board members to comply with financial disclosure requirements. **Ought to Pass.**

2014 Road Agents Association Scholarship Program

Two \$1200 Scholarships Will be Awarded!

Two \$1200 scholarships will be given to graduating seniors in the top 25% of their class and proceeding on to accredited post-secondary institutions OR to students currently enrolled in post-secondary institutions who are the sons or daughters of NH Road Agents Association members. NH Road Agents Association members include entire municipalities and vendor companies. The students must maintain 2.5 or higher post-secondary grade point averages and be enrolled in the next semester to receive the awards. Click here to review the [Scholarship Summary Sheet](#) and [Application](#). Completed applications should be mailed to the Town of New London, Attention Richard Lee, 375 Main Street, New London, NH, 03257. Application deadline: **April 1, 2014**.

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!](#)

NHMA Webinar

Legislative Happenings at the State House at Crossover

Event Date: 31 March, 2014
 Time: 12:00 PM - 1:00 PM
 Contact: NHMA Government Affairs
 Contact Email: NHMAregistrations@nhmunicipal.org
 Contact Phone: 603.224.7447

Join Government Affairs Counsel Cordell Johnston and Government Finance Advisor Barbara Reid for a look at the status of legislation affecting municipalities after "Crossover." Crossover is the date (March 27 this year) by which a bill must pass either the House or the Senate in order to "cross over" to the other chamber for consideration.

This webinar will discuss the prospects for bills still alive at the State House, and offer a post-mortem on a few that have been killed. The discussion will include, among others, legislation on highway funding, the Right-to-Know law, the retirement system, planning and zoning issues, and tax rate setting.

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

[Register Today!](#)

2014 Local Officials Workshops

Presented by NHMA's Legal Services attorneys, the 2014 *Local Officials Workshops* provide elected and appointed municipal officials with the tools and information needed to effectively serve their communities.

This workshop is **for NHMA members only**. Although there is no registration fee, online pre-registration is required one week prior to the event date. Attendees will receive a copy of NHMA's 2014 edition of *Knowing the Territory*. Continental breakfast and lunch will also be provided.

Wednesday, April 9:	Keene Recreation Center, Keene
Monday, April 14:	Newington Town Hall, Newington
Wednesday, April 23:	Veteran's Hall, Newbury
Thursday, May 1:	Littleton Opera House, Littleton
Saturday, May 10:	NHMA Offices, 25 Triangle Park Drive, Concord



Each workshop runs from 9:00 am – 4:00 pm. For more information, or to register online, please visit www.nhmunicipal.org and click on Calendar of Events. If you have other questions, please contact us at 800.852.3358, ext. 3350, or email nhmaregistrations@nhmunicipal.org.