

LEGISLATIVE BULLETIN

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2014 Session

March 28, 2014

INSIDE THIS ISSUE:

<i>Certification of Building Officials</i>	2
<i>Taxation of RVs</i>	2
<i>Senate Passes Municipal Funding Bills</i>	3
<i>Background Checks for Youth Programs</i>	3
<i>House Calendar</i>	5
<i>Senate Calendar</i>	7
<i>House Floor Action</i>	8
<i>Senate Floor Action</i>	9
<i>Local Officials Workshops</i>	10
<i>NHMA Webinars</i>	11

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House Tables Right-to-Know Bill

By an overwhelming vote, 248-66, the House voted this week to table **HB 1591**, the bill mentioned in the last two Bulletins that would have required the posting of notice and an agenda 72 hours in advance of any non-emergency meeting of a local public body. This means the bill is effectively dead. (For those who are interested in the theoretical possibilities, the bill could still be removed from the table by a majority vote—highly unlikely—but because the House deadline to act on House bills has passed, it would also take a two-thirds vote to suspend the rules to allow consideration of the bill. Given the almost 4-to-1 vote to table the bill, there is no chance of that.)

Thank you again for all of your calls and e-mails to legislators explaining the problems with this bill. This was a great example of municipal advocacy at work!

Road Toll Increase Heading to the House

For the second time in two weeks, the Senate passed **SB 367**, an **NHMA policy bill** that will increase the road toll (gas tax) by 4.2 cents effective July 1, 2014. In last week's *Bulletin*, we summarized how the \$33 million raised annually by this increase will be allocated to the state and municipalities. The bill now heads to the House, which has been very supportive in the past few years of a road toll increase to address New Hampshire's highway and bridge infrastructure needs. We will keep you posted as this bill proceeds through the House.

Highway Fund Diversion Bill Passes Senate

On a related note, by a voice vote the Senate also passed **SB 416**, which will restrict the diversion of highway funds in the next biennial state budget, deliberations on which will begin when the Governor submits a budget proposal to the legislature in February 2015. The bill prohibits the appropriation 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, except for road toll administration and audit. This would increase by an estimated \$20 million

Highway Fund - continued

annually the amount available in the highway fund for road and bridge maintenance and improvements, but would also require those agencies to be funded by state general funds rather than by highway funds. The bill also establishes two study committees: one to study methods of maintaining highway fund integrity and the other to study the effectiveness and efficiency of the Department of Transportation, which is identical to the study committee established in **SB 367**.

House to Hear Bill on Certifying Building Officials

The House Executive Departments and Administration Committee will hear testimony next week on **SB 315**, which establishes a state board of building officials and requires that any local official enforcing the state building code be certified by the board. Certifications would have to be renewed every two years, and all building officials would be subject to mandatory continuing education requirements. As we explained in [Legislative Bulletin #5](#), we have concerns about the bill.

NHMA supports the goal of enhancing public safety by ensuring that qualified officials are enforcing the building code, but requiring certification and continuing education for municipal officials is a significant and unusual step that should not be taken lightly. The bill would unquestionably increase municipal costs, which will lead to increased property taxes and/or higher fees paid by builders. Because of the additional cost and restrictions on municipal authority, the NHMA board voted last week to oppose the bill.

This is a serious issue, but it is not a simple one. That is why we have suggested the establishment of a study committee to look at the issue of building code enforcement, rather than rushing to institute a certification requirement.

The hearing on **SB 315** is scheduled for **Tuesday, April 1, at 11:00 a.m., in LOB Room 306**. If you share our concerns, please contact members of the [Executive Departments and Administration Committee](#) and your own representatives.

Taxation of Recreational Vehicles

SB 333 would deem a recreational vehicle to be personal property, not subject to taxation as real estate, if it does not remain in one municipality for more than 45 days except for storage, or if it is located on a rented campsite at a “recreational campground or camping park” as defined in RSA 216-I:1, VII. The bill addresses an issue that has arisen in recent years because some municipalities have taxed RVs as real estate, while others have not. The Department of Revenue Administration has advised a number of municipalities that they need to begin taxing RVs that are permanently located in RV parks, and this advice has not always been well received.

When **SB 333** was in the Senate, we heard from a number of municipal officials who supported the bill, because they said assessing the RVs is more trouble than it

Recreational Vehicles - continued

is worth, the cost of assessing them sometimes even exceeds the amount of property tax revenue realized, and taxing them is causing RV owners to take their vehicles to other towns, to the detriment of local businesses. Since the Senate passed the bill, however, we have heard some opposition, especially from a few municipalities that have RV parks with many high-end models that account for significant property valuation.

Because of these differing views, NHMA has not taken a position on the bill. However, if you have an opinion on the matter, legislators need to hear from you. The bill is scheduled for a hearing before the [Municipal and County Government Committee](#) next **Tuesday, April 1, at 2:00 p.m. in LOB Room 301.**

Senate Passes Two Municipal Funding Bills

On Thursday the Senate passed two bills that will provide funding to municipalities. The first bill, **SB 409**, appropriates approximately \$5 million to the Department of Safety as the state match for federal disaster assistance funds received from the Federal Emergency Management Agency (FEMA) for nine declared disasters that occurred from February 2010 to July 2013. While not required by law, historically the 25 percent match on FEMA grants had been shared equally between the state and municipalities (12.5 percent each). Since early 2010, the state has not appropriated funds for its share of the FEMA match, leaving municipalities to pay the full 25 percent. **SB 409** appropriates \$5 million in the state fiscal year beginning July 1, 2015 (*i.e.*, in the next state biennial budget) for the state share of the FEMA match for those nine disasters. That money will be distributed among the affected municipalities based on the eligible disaster costs recognized by FEMA. Click [here](#) to see a list of the amounts payable to each municipality (in the last column, "Calculated State Match").

The second bill is **SB 370**, which appropriates just over \$1 million to the Department of Revenue Administration for distribution to the 14 municipalities in the Merrimack River Valley Flood Control Compact that did not receive the full amount of payments-in-lieu-of-taxes owed to them in state fiscal years 2012 and 2013. Money for this appropriation came from a settlement agreement reached in January with the Commonwealth of Massachusetts regarding arrearages owed to New Hampshire under that interstate compact.

We thank the Senate for being so mindful of the hardships faced by municipalities when the state pulls out of previous partnership collaborations. Please speak to your representatives about these bills and ask them to urge support in the House.

New Law Requires Background Checks for Youth Programs

With summer approaching (despite appearances to the contrary), municipalities need to be aware of a new law that passed last year requiring annual background checks for employees and volunteers working for certain youth programs. We reported on the bill, **HB 295**, when it passed last June, but that was a long time ago.

Background Checks - continued

As we mentioned at the time, our arguments for a municipal exemption from the law's requirements were unsuccessful.

The new law, codified in RSA 485-A:23 through :25, defines two kinds of youth camp: a "recreation camp" and a "youth skill camp." Although both definitions may seem to apply, the licensing requirement for "recreation camps" applies only to a camp "designed as a vacation or recreation resort." Because few if any municipalities operate camps that are designed as vacation or recreation resorts, only the "youth skill camp" requirements are likely to be relevant.

The new law defines "youth skill camp" as "a nonprofit or for-profit program that lasts 8 hours total or more in a year for the purpose of teaching a skill to minors. Such camps include, but are not limited to, the teaching of sports, the arts, and scientific inquiry." This is a rather broad definition, and it obviously is not limited to actual "camps." However, the proposed rules drafted by the Department of Environmental Services (DES) narrow the definition by defining the word "program" as used in the statute. (If it seems strange that DES is in charge of this program, everyone agrees, including DES; but it is a historical anomaly that the legislature has not chosen to change.)

Under DES's proposed rules, a "program" means "a specific curriculum that (1) has been developed by individuals knowledgeable and experienced in the field to impart a specific skill in a logical progression of increasing difficulty over a period of 3 or more consecutive days; and (2) is taught by at least one instructor who is knowledgeable and experienced in the skill being imparted." This would seem to rule out, for example, a youth sports league if the teams do not have practices and/or games on three or more consecutive days. It also would rule out recreation programs that are merely providing playground or similar activities, as opposed to "impart[ing] a specific skill in a logical progression of increasing difficulty." On the other hand, a week-long soccer or basketball camp would clearly be covered, as would a team that has practices/games every day. Although the rules are not final, and will not be for several months, DES has indicated that municipalities may rely on the definition in the rules for this year. (The law took effect January 1, and operators of youth skill camps must comply this year, even though the rules are not yet final.)

If a program does qualify as a youth skill camp, the new law requires the operator (the municipality) to do two things: (1) "maintain an appropriate policy regarding background checks for . . . employees and volunteers who may be left alone with any child or children," and (2) certify to DES that none of the employees or volunteers have a criminal conviction for causing or threatening direct physical injury to any individual or causing or threatening harm of any nature to any child or children. Although private organizations must pay a \$25 fee when they file the certification form, municipalities and other political subdivisions are exempt from the fee.

DES has developed a draft certification form, which you can find [here](#), along with other information about the new law. The form also is not final, but again, it may be used for this year.

Background Checks - continued

The proposed rules state that the background check must include a criminal background check in each state of residence of the employee or volunteer, and a check of the national sex offender registry. There are private companies that perform these checks, and many municipal recreation programs already use one of these companies. The proposed rules also define what constitutes an “appropriate” background check policy. That definition is too lengthy to include here, and the proposed rules have not yet been published, but we have been told they will be available on the DES website as soon as they reach the public review stage, which should be sometime in April.

There is no specific date by which the certification must be filed, but it must be filed annually, and the background check policy must provide for at least annual background checks. We suggest that municipalities wait until the proposed rules are published before filing their certifications, but it would be best to start doing the background checks sooner rather than later.

It is going to take some time for all of the details of this new program to become clear, primarily because the statute took effect before there was any reasonable opportunity for the adoption of final rules. In the meantime, we understand that a good-faith effort to comply with the law will be sufficient to avoid any negative consequences.

If you have questions, you may contact us, although you are likely to get more authoritative answers by contacting the [DES Drinking Water and Groundwater Bureau](#). (Yes, that’s right — the drinking water people!)

HOUSE CALENDAR

Joint House/Senate Meetings Are Listed Under This Section

TUESDAY, APRIL 1

ELECTION LAW, Room 308, LOB

- 10:00 a.m. **SB 271**, relative to retention of voter affidavits and identity verification.
- 10:30 a.m. **SB 272**, relative to notice of voter registration.
- 1:00 p.m. **SB 275**, relative to refusal to certify an absentee ballot application.
- 1:30 p.m. **SB 279**, relative to challenges of voters.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306

- 10:30 a.m. **SB 395-FN**, relative to the retirement classification of the director of the division of forests and lands.
- 11:00 a.m. **SB 315-FN**, establishing the board of building officials.

JUDICIARY, Room 208, LOB

- 11:30 a.m. **SB 201**, relative to marriage registration forms.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. **SB 233**, relative to property tax exemption for district fire mutual aid systems.
- 10:30 a.m. **SB 347**, relative to municipal enforcement of land use ordinances.

House Calendar - continued**MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB (Continued)**

- 11:00 a.m. **SB 216**, relative to designating an alternate trustee of the trust fund.
 11:30 a.m. **SB 236**, relative to delivery of the final budget and recommendation of the municipal budget committee to the governing body.
 1:30 p.m. **SB 219**, relative to funds received from the sale of cemetery lots.
Rooms 301-303, LOB
 2:00 p.m. **SB 333**, relative to property taxation of manufactured housing.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

- 10:00 a.m. **SB 372-FN-L**, relative to a state infrastructure bank.

WEDNESDAY, APRIL 2**ELECTION LAW, Room 308, LOB**

- 11:00 a.m. **SB 183-FN**, (New Title) relative to identification of voters, processing absentee ballots, and voluntary political expenditure limitations. **NHMA Policy.**
 1:00 p.m. **SB 294**, relative to the deadline for requesting a recount of an election.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 307, LOB

- 1:30 p.m. **SB 295**, prohibiting an employer from using credit history in employment decisions.

WAYS AND MEANS, Room 202, LOB

- 10:30 a.m. **SB 300**, (New Title) relative to the setting of tax rates and the disposition of rooms and meals tax revenues by the department of revenue administration. **NHMA Policy.**
 11:00 a.m. **SB 386**, relative to the authority and duties of the department of revenue administration.
 11:15 a.m. **SB 265**, making a technical correction to the disposition of meals and rooms tax revenues.

THURSDAY, APRIL 3**ELECTION LAW, Room 308, LOB**

- 10:00 a.m. **SB 206-FN**, relative to proof of identity by voters.
 10:30 a.m. **SB 276**, relative to notifying a UOCAVA voter of an invalid absentee ballot application.
 11:00 a.m. **SB 278**, relative to the absentee voter website.
 11:30 a.m. **SB 277**, relative to absentee voter registration.
 1:00 p.m. **SB 280**, relative to absentee voters.

FINANCE, Rooms 210-211, LOB

- 11:15 a.m. **SB 339-FN**, relative to instituting a credit card affinity program in which fees received are directed to offset the retirement system's unfunded liability.

TUESDAY, APRIL 8**RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB**

- 11:15 a.m. **SB 363**, relative to insurance coverage for facilities for the Winnepesaukee River basin control.

House Calendar - continued**TUESDAY, APRIL 8****RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB**

11:15 a.m. **SB 363**, relative to insurance coverage for facilities for the Winnepesaukee River basin control.

SENATE CALENDAR**TUESDAY, APRIL 1****FINANCE, Room 103, SH**

1:30 p.m. **HB 1489-FN-A-L**, establishing a committee to study the establishment of a fund to reimburse costs associated with firefighters who have cancer.

HEALTH, EDUCATION AND HUMAN SERVICES, Room 103, LOB

9:20 a.m. **HB 1571-FN-L**, relative to breastfeeding.

JUDICIARY, Room 100, SH

10:30 a.m. **HB 1435**, requiring law enforcement officials to disclose specific information relating to a police checkpoint.

TRANSPORTATION, Room 103, LOB

1:00 p.m. **HB 1406-FN**, relative to red list bridges.

WAYS AND MEANS, Room 103, SH

9:00 a.m. **HB 1195**, establishing a committee to study the impacts of the property tax on New Hampshire's residents, businesses, municipalities, and the economy. **(the previous hearing for HB 1195 was recessed on March 25th)**

9:15 a.m. **HB 1196**, relative to abatement of property taxes.

9:30 a.m. **HB 1466**, relative to modification of a tax increment financing plan.

WEDNESDAY, APRIL 2**EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, SH**

9:00 a.m. **HB 1130-FN-L**, relative to the Northeastern Interstate Forest Fire Protection Compact.

9:30 a.m. **HB 1152-FN**, terminating the benefit program for call, substitute or volunteer firemen administered by the New Hampshire retirement system.

10:00 a.m. **HB 1398-FN**, allowing the retirement system to make payments in lieu of payments to estates in certain instances.

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

9:30 a.m. Hearing on proposed non-germane amendment #2014-1163s to **HB 1124**, relative to the adoption of zoning ordinances in towns that use official ballot voting.

9:45 a.m. **HB 1121**, repealing the duty of assessors to compile a list of dogs in the town.

10:00 a.m. **HB 1350**, relative to prior public hearings for acceptance of unanticipated funds.

Senate Calendar - continued**PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB (Continued)**

- 10:30 a.m. **HB 1543**, relative to filing for state representative special elections and relative to processing absentee ballots. **NHMA Policy.**
- 10:50 a.m. **HB 1544**, relative to special election ballots.

TUESDAY, APRIL 8**JUDICIARY, Room 100, SH**

- 9:15 a.m. **HB 1567-FN**, requiring a warrant to obtain electronic device location information.
- 9:30 a.m. **HB 1620-FN**, relative to the use of drones.

HOUSE FLOOR ACTION

Tuesday, March 25 – Thursday, March 27, 2014

HB 1100, establishing a committee to study the ownership by public entities of land for conservation purposes. **Inexpedient to Legislate.**

HB 1114-FN, relative to limits on state expenditures for school building aid. **Inexpedient to Legislate.**

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. **Ought to Pass with Amendment**

HB 1129, establishing a committee to study energy efficiency. **Ought to Pass with Amendment.**

HB 1139, repealing authority for granting of property tax abatements for watering troughs and shade trees. **Ought to Pass.**

HB 1142-FN-A, relative to the road toll for alternative fuels. **Ought to Pass with Amendment.**

HB 1149-FN, relative to motor vehicle registrations. **Ought to Pass.**

HB 1228, establishing a commission to investigate the procedure for public employee collective bargaining. **Inexpedient to Legislate.**

HB 1229-FN, relative to the oil discharge and gasoline ether cleanup fund. **Ought to Pass.**

HB 1258, relative to fill and dredge permitting applications. **Ought to Pass with Amendment.**

HB 1313, relative to highway surveillance. **Laid on Table.**

HB 1348, relative to the community development finance authority. **Inexpedient to Legislate.**

House Floor Action - continued

HB 1356, relative to fire department plates. **Inexpedient to Legislate.**

HB 1379, excluding firearms records from public records subject to disclosure under the right-to-know law. **Inexpedient to Legislate.**

HB 1383, relative to municipal monitoring of large groundwater withdrawals. **Ought to Pass with Amendment.**

HB 1467, relative to large groundwater withdrawal permits. **Inexpedient to Legislate.**

HB 1483-FN, relative to transfers of motor vehicle registration. **Inexpedient to Legislate.**

HB 1492-FN-L, relative to the issuance of fines for unlicensed dogs. **Inexpedient to Legislate.**

HB 1494-FN, relative to administration of the New Hampshire retirement system and authority of the board of trustees. **Ought to Pass.**

HB 1591-FN, establishing the right-to-know grievance commission. **Laid on Table.**

HB 1610-FN, relative to the excavation tax. **Interim Study.**

HB 2014, relative to the state 10-year transportation improvement program. **Ought to Pass with Amendment.**

SENATE FLOOR ACTION

Thursday, March 27, 2014

SB 204-FN, relative to a fund for certain medical conditions covered by workers' compensation and establishing a commission to study soft tissue injuries under workers' compensation. **Ought to Pass with Amendment.**

SB 228, relative to notice of changes to zoning and historic districts. **Ought to Pass with Amendment.**

SB 237, relative to local land use board hearing notice to condominium owners. **Ought to Pass with Amendment.**

SB 244, requiring the names of certain persons to be reported to the National Instant Criminal Background Check System Index. **Ought to Pass with Amendment.**

SB 267, extending the effective date for integrated land development permits. **Ought to Pass.**

Senate Floor Action - continued

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

SB 354, relative to the definition of “agritourism.” **Interim Study.**

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

SB 370-FN-L, relative to state reimbursement of cities and towns for funds received under river management compacts. **Ought to Pass with Amendment.**

SB 387, relative to exemptions from the land sales full disclosure act. **Ought to Pass with Amendment.**

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. **Ought to Pass.**

SB 399, relative to competitive bidding and procurement by state agencies. **Ought to Pass with Amendment.**

SB 408-FN-L, relative to aid for regional agreements of watershed municipalities. **Interim Study.**

SB 409-FN-A-L, making a supplemental appropriation to the department of safety for municipal disaster assistance. **Ought to Pass with Amendment.**

SB 416-FN-A, relative to highway fund appropriations. **Ought to Pass with Amendment.**

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.

NHMA Webinars

Legislative Happenings at the State House at Crossover

Date: March 31, 2014
Time: 12:00 noon - 1:00 PM
Contact Phone: 603.224.7447
Join us on **Monday**, March 31 at noon!

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.

[Click Here to Register Today!](#)



Preparing a Land Use Certified Record for Court

Date: April 16, 2014
Time: 12:00 noon - 1:00 PM
Contact Phone: 603.224.7447
Join us on Wednesday, April 16 at noon!

Join Staff Attorneys Paul Sanderson and Christine Fillmore to discuss the process of preparing a land use certified record for the Superior Court. We will discuss the steps to take after the town has been served, and how local staff or board members can assist the town attorney as he or she prepares these materials for submission. We will also give some tips that can be used in any case to make preparation of the record easier and more accurate.

This webinar is open to members of the NH Municipal Association and is of interest to land use boards, officials and employees, assessors, tax collectors, and any other official or employee dealing with land use.

[Click Here to Register Today!](#)