

LEGISLATIVE BULLETIN

Bulletin #14

2014 Session

April 4, 2014

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The Second Half Begins

As previously mentioned, the legislature is now past Crossover, which means all House bills that are still alive have moved to the Senate, and the surviving Senate bills have moved to the House. Both chambers had lengthy sessions last week to finish action on their own bills before Crossover, and committee activity on the "crossed over" bills started in earnest this week. Hearings will continue over the next few weeks; the Senate will be particularly busy dealing with the many bills passed by the much-larger House.

Since they are in committee hearing mode, neither the House nor the Senate met in session this week (which is why no floor action is reported in this week's *Bulletin*), nor will they meet next week. Once the committees take action on some of their bills, weekly sessions will resume.

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Zoning Notice Requirement Would Overwhelm Municipalities

The House Municipal and County Government Committee will hear testimony next week on **SB 228**, an alarming bill that would dramatically change the notice requirements for hearings on zoning changes. The hearing is scheduled for **Tuesday, April 8, at 10:30 a.m., in LOB Room 301.**

As most readers are aware, current law requires the planning board to hold a public hearing on every proposed amendment to a zoning ordinance; notice of the hearing must be published in a newspaper of general circulation and posted in two public places. This requirement has been in place, with only minor changes, for almost 90 years. (Originally, only newspaper publication was required; subsequently, for a few years, posting in three public places was required.) Under this bill, however, "If a proposed amendment to a zoning ordinance would change a boundary of a zoning district or the uses, setbacks, or lot sizes in a district and the change would affect 500 or fewer properties, notice of a public hearing on the amendment shall be **sent by first class mail to the owners of each affected property.**"

Zoning Notice - continued

Imagine, then, a town in which six different zoning amendments are proposed in a single year — hardly an unusual situation. (And, by the way, the town has no control over how many amendments are proposed, since they can be submitted by citizen petition.) Someone in the town office will have to review the zoning map(s), count the number of lots in the affected zoning district(s), and, if there are fewer than 500, go through the property records and assign a name and address to each lot. And do this six times. And then mail up to 500 hearing notices (times six, potentially). If one property owner is missed, presumably the entire process is invalid.

Incredible, you say? That's what we thought — and why we predicted several weeks ago that the Senate would not view the bill favorably. We were wrong. Working with the bill's sponsor, we proposed a compromise that would have applied in very limited circumstances and would have addressed the specific situation that gave rise to the bill. The sponsor found the compromise acceptable, but the interest groups that had rallied behind the bill did not. Instead, they pushed the Senate in the opposite direction and made the bill more extreme. (The original bill applied only to changes in permitted uses, not dimensional requirements, and contained a clause stating that a good-faith effort would be sufficient to satisfy the mailing requirement.)

Fortunately, we have a bicameral legislature, and we are optimistic that the Municipal and County Government Committee, and the full House, will understand the problems with this bill. We remain prepared to consider a compromise, but we suspect that the groups that have hijacked the bill would rather crash than compromise. That is their choice.

Despite our optimism, we are not taking anything for granted this time.. ***Please contact your representatives and members of the [committee](#) and explain how much chaos SB 228 would create in the middle of town meeting season.***

Notice Requirements, Part 2

Speaking of notice requirements, the Municipal and County Government Committee will hear another bill on Tuesday that is almost as troubling.

SB 237, scheduled for a hearing at **11:00 a.m. on Tuesday in LOB Room 301**, changes the definition of “abutter” as it relates to condominiums for purposes of land use board hearings. When a land use board conducts a hearing on an application related to a particular property, it must notify abutters by certified mail in advance of the hearing. Existing law states that if an abutting property is under a condominium form of ownership, the term “abutter” means the officers of the condominium association. Thus, the land use board sends notice to the officers of the condominium association; if the officers are doing their job, they then notify the individual unit owners.

Notice Requirements - continued

SB 237 would require the land use board to do the condominium officers' job for them. It changes the definition of "abutter" to say that if an abutting condominium property consists of 100 or fewer units, the term "abutter" includes *each unit owner*, rather than the officers. Again, this will create an enormous burden for municipal employees. It will also lead to all kinds of anomalous consequences. In a condominium that consists of single-family detached units, notices may have to be sent to owners whose units are half a mile away, separated from the subject property by dozens of other lots.

Once again, we offered a reasonable compromise in the Senate. Although the existing law has worked well for 30 years and does not need to be changed, we suggested an amendment to require the mailing of notice to unit owners if there are *ten* or fewer units. The Senate accepted that idea, but added a zero to our number — not what we had in mind.

We're not sure what has happened to the notion of personal responsibility and due diligence, but we do not believe municipalities should be responsible for the inattentiveness of private individuals. Legislation like **SB 237** has been killed several times in recent years, and we will urge the same result this year.

Joint Hearing on Road Toll (Gas Tax) Increase

On **Tuesday, April 8, at 10:00 a.m., in LOB rooms 210-211**, the House Public Works and Highway Committee and the House Ways and Means Committee will hold a joint hearing on **SB 367**, which increases the road toll by 4.2 cent per gallon of gas effective July 1, 2014. Here is a [summary](#) of how the \$33 million raised annually by this increase will be allocated to the state and municipalities as well as a [list by municipality](#) of the estimated \$4 million annual increase in highway block grant funding that would be provided to municipalities beginning July 1, 2015.

As we have noted in past *Bulletins*, the House has been very supportive of a road toll increase to address the state's highway and bridge infrastructure needs, but members of the joint committee still need to hear from you! Please contact your representatives who serve on the [Public Works and Highways Committee](#) and the [Ways and Means Committee](#) and urge their support for **SB 367**.

House Finance to Hear Municipal Appropriation Bills

On **Thursday, April 10, in LOB Rooms 210-211**, the House Finance Committee is scheduled to hear two municipal appropriation bills. **SB 370**, which provides just over \$1 million to municipalities in the Merrimack River Valley Flood Control Compact, will be heard at **10:00 a.m.**; a work session will follow in Finance-Division I at **1:00 p.m. in LOB Room 212**. **SB 409**, which appropriates approximately \$5 million to reimburse municipalities ([click here for list](#)) for the state share of disaster assistance from nine disasters between February 2010 and July 2013, will be heard at **10:45 a.m.**, with a work session to follow in Finance-Division II at **1:00 p.m. in LOB Room 209**.

NHRS Penalty Bill

HB 1494 establishes a \$25 per day penalty for late remittance or incorrect data on the new reporting requirement regarding compensation paid to part-time workers who are also New Hampshire Retirement System (NHRS) retirees. The bill is scheduled for a hearing in the Senate Executive Departments and Administration Committee on **Wednesday, April 9, at 9:00 a.m., in State House Room 100.** There continue to be many questions regarding the new reporting requirement, particularly around the issue of reporting time worked by elected officials such as mayors, selectmen or treasurers who are also NHRS retirees. We feel it is unfair to impose a penalty on employers for inaccurate reporting when there is confusion over the information that must be reported. We hope the committee will be amenable to an amendment to clarify these reporting requirements.

Certification of Building Officials

The House Executive Departments and Administration Committee heard testimony this week on **SB 315**, which would require state certification of any local official responsible for enforcing the state building code. As we stated in [last week's Bulletin](#), NHMA opposes the bill because of the additional costs and the restrictions it would impose on municipal authority, and we expressed those concerns at the hearing. At least some committee members seemed to share our reservations, and even the bill's supporters acknowledged that it probably needs significant work.

Whether there is sufficient time to do that work is uncertain. A subcommittee has been appointed to work on the bill; it is scheduled to meet next **Wednesday, April 9, at 1:00 p.m., in LOB Room 306.** The chair of the committee indicated that the committee's deadline to act on the bill is Thursday, April 17.

Taxation of Recreational Vehicles

The Municipal and County Government Committee heard over two hours of testimony on Tuesday on **SB 333**, the bill described in [last week's Bulletin](#) that would exempt certain recreational vehicles from property taxation if they are located on a rented campsite at a "recreational campground or camping park." Many campground owners and RV owners and a few local officials spoke in favor of the bill, while several local officials and assessors opposed it. The committee seemed sympathetic to the concerns of campground owners — some of whom have gotten stuck with tax bills that campers refused to pay — but also recognized the arbitrariness of exempting RVs that are connected to utilities and are in many ways indistinguishable from vacation cabins.

We understand that some members of the committee are working on an amendment that tries to accommodate the goals of all parties — surely a Solomonic undertaking, which we hope will succeed. Local officials are encouraged to contact members of the [committee](#) if they have concerns or suggestions.

Selectmen's Authority to Abate Taxes

On Tuesday the Senate Ways and Means Committee heard testimony on **HB 1196**, which amends RSA 76:16 to clarify the selectmen's authority to abate taxes and interest. **HB 1196** is the House version to reverse a 2013 Board of Tax and Land Appeals decision which ruled that application by the taxpayer is a prerequisite for an abatement in all cases. This BTLA ruling was contrary to what had generally been understood as the selectmen's authority to abate "for good cause shown" as the law states, with or without an application by the taxpayer.

The Senate already addressed this same issue in **SB 286**, amending RSA 76:16 differently than **HB 1196** proposes. During its executive session, the Ways & Means Committee decided to propose an amendment to **HB 1196** that would combine the wording of both bills. We will watch for that amendment to ensure that such a combination works. In the meantime, the House Municipal and County Government Committee is scheduled to hold a hearing on **SB 286** on **Tuesday, April 8, at 10:00 a.m., in LOB Room 301.**

HOUSE CALENDAR

Joint House/Senate Meetings Are Listed Under This Section

TUESDAY, APRIL 8

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB

10:00 a.m. **SB 399**, (New Title) relative to ethics in public contracting and establishing a committee to study state procurement.

JOINT COMMITTEE of PUBLIC WORKS AND HIGHWAYS and WAYS AND MEANS, Rooms 210-211, LOB

10:00 a.m. **SB 367-FN-A**, (New Title) requiring adjustment of the road toll according to changes in the Consumer Price Index, eliminating certain ramp tolls on the Everett turnpike in the town of Merrimack, and establishing a committee to study the effectiveness and efficiency of the department of transportation.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 307, LOB

10:15 a.m. **SB 207-FN**, relative to paycheck equity.

Please note Rooms 305-307, LOB

2:15 p.m. **SB 204-FN**, (2nd New Title) relative to a benefit for certain medical conditions covered by workers' compensation and establishing a commission to study soft tissue injuries under workers' compensation and to study the feasibility of developing a first responder's critical injury fund.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

10:00 a.m. **SB 286**, relative to abatements for prior years' property taxes.

10:30 a.m. **SB 228**, (New Title) relative to notice of changes to zoning districts.

11:00 a.m. **SB 237**, (New Title) relative to the definition of "abutter" for notice of land use board hearings.

House Calendar - continued**WEDNESDAY, APRIL 9****COMMERCE AND CONSUMER AFFAIRS, Room 302, LOB**

1:45 p.m. **SB 387**, (New Title) relative to exemptions from the land sales full disclosure act and relative to local land use citations.

COMMITTEE TO STUDY NEW HAMPSHIRE ELECTION LAWS AND PROCEDURES (HB 521, Chapter 220, Laws of 2013), Room 308, LOB

10:00 a.m. Regular meeting.

WAYS AND MEANS, Room 202, LOB

1:00 p.m. **SB 327-FN**, relative to economic revitalization zone tax credits.

THURSDAY, APRIL 10**FINANCE, Rooms 210-211, LOB**

10:00 a.m. **SB 370-FN-L**, (New Title) relative to reimbursement of towns affected by the Merrimack River flood control compact and making an appropriation therefor.

10:45 a.m. **SB 409-FN-A-L**, (New Title) making an appropriation to the department of safety for disaster assistance grants.

11:15 a.m. **SB 416-FN-A**, (New Title) relative to highway fund appropriations and establishing a committee to study the effectiveness and efficiency of the department of transportation.

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

10:30 a.m. **SB 267**, extending the effective date for integrated land development permits.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 203, LOB

11:15 a.m. **SB 296**, relative to preferences for veterans and disabled veterans in public employment.

TUESDAY, APRIL 15**HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Room 205, LOB**

11:00 a.m. **SB 203**, relative to permissible uses of electronic benefit transfer (EBT) cards.

WEDNESDAY, APRIL 16**RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB**

1:30 p.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.

SENATE CALENDAR

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.

WAYS AND MEANS, Room 103, SH

- 9:00 a.m. **HB 1142-FN-A**, relative to the road toll for alternative fuels.

WEDNESDAY, APRIL 9

ENERGY AND NATURAL RESOURCES, Room 101, LOB

- 9:00 a.m. **HB 1151**, establishing a committee to study the solid waste operator training program and financial assurance for corrective action at solid waste landfills.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, SH

- 9:00 a.m. **HB 1494-FN**, relative to administration of the New Hampshire retirement system and authority of the board of trustees.

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

- 9:50 a.m. **HB 1156-FN-L**, making certain changes to the right-to-know law and establishing the right-to-know oversight commission.
- 10:15 a.m. **HB 1545**, relative to voting booths.
- 10:30 a.m. **HB 1139**, repealing authority for granting of property tax abatements for watering troughs and shade trees.

TUESDAY, APRIL 15

JUDICIARY, Room 100, SH

- 9:00 a.m. **HB 1122-FN**, relative to the filing with a registry of deeds of a fraudulent document purporting to create a lien or claim against real property.
- 9:50 a.m. **HB 1619-FN**, prohibiting the acquisition, collection, or retention of certain information.
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NHMA Webinar

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!](#)

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.