

LEGISLATIVE BULLETIN

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Zoning Bill Headed in Wrong Direction

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SB 228, which we described in [Bulletin #14](#), continues to cause concerns. As passed by the Senate, it would require a municipality to send notice by first class mail to owners of “affected properties” whenever a hearing is scheduled on a proposed zoning amendment, if the amendment would affect 500 or fewer properties. Current law requires only that notice be posted in two public places and published in a newspaper.

Recognizing the burden the new requirement would impose on municipalities, but also appreciating the legitimate concerns of affected property owners, the House Municipal and County Government Committee appointed a subcommittee to work on the bill, and that subcommittee met this week.

In an effort to satisfy the concerns of the bill’s supporters, NHMA proposed an amendment to the subcommittee that would institute generous notice provisions, but in a manner that (we believe) works for municipalities. The NHMA amendment would require a municipality to send notice of zoning amendment hearings to anyone who has requested it in advance. A property owner could ask to receive notice by electronic communication or by first-class mail, subject to payment of a small fee if mail notice is requested. The municipality would send notice of all zoning amendment hearings to anyone who has requested it, regardless of whose properties, or how many, are affected. In exchange for the new requirement, the NHMA amendment would eliminate the current requirement of publishing notice of the hearing in a newspaper, but it would retain the requirement of posting notice in two public places.

Because most people would likely request notice, if at all, by electronic communication, this should be a minimal burden for the municipality. It would not require the municipality to count the number of affected properties or compare zoning maps against property tax records. At the same time, it would provide individual notice of all zoning amendment hearings to anyone who is interested, not just those in the affected district, and no one who is truly interested would have to go to town hall or scour the legal notices to get the desired information. Anyone could

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have notice of all hearings delivered to his or her computer or mailbox simply by making one phone call or sending one letter or e-mail.

Nevertheless, the subcommittee is recommending a watered-down version of the bill passed by the Senate, with the primary difference being a reduction in the maximum number of affected properties to 100. The subcommittee amendment also requires the petitioners to bear the cost of notice in the case of a petitioned amendment, although it is unclear how that would be achieved, given that the municipality won't know whether the first-class mail notice requirement applies until well after the petition has been submitted.

We are unsure why this amendment was considered preferable to the NHMA amendment—it provides notice to fewer people about fewer zoning amendments, at greater cost and effort to the municipality. Apparently subcommittee members were influenced by the bill's proponents, who claimed that “other states” require notice similar to, or more extensive than, what **SB 228** requires.

So let's examine that claim. We looked at the five other New England states, which seemed like a reasonable basis for comparison. With one very limited exception, none of them requires mailed notice to all affected property owners. In fact, **Connecticut**'s statute is almost identical to the NHMA proposal, requiring notice only to property owners who have requested it, although the statute does not explicitly allow municipalities to charge for first-class mail notice. Whether Connecticut municipalities have that authority implicitly, we do not know. One of the bill's proponents told the subcommittee that the town of Greenwich, Connecticut, does not charge a fee for mailed notice—which proves only that one town does not charge a fee.

Rhode Island's statute is also similar to NHMA's proposal, except that it allows only for electronic notice—there is no option to receive notice by U.S. mail, except in the case of a zoning boundary change. **Massachusetts** *allows* (does not require) a municipality to provide a system for notifying individual property owners by U.S. mail, subject to a reasonable fee, but only for *non-resident* property owners who have requested notice. **Maine** provides for notice by first-class mail to affected property owners only in extremely limited circumstances—specifically, where a zoning amendment would prohibit all commercial and industrial uses in an area where they previously were permitted, or would allow all such uses where they previously were prohibited. **Vermont** has no provision for individual notice.

In short, NHMA's amendment would provide notice that is significantly more generous than in any other New England state except Connecticut. So where are these “other states” that require more extensive individual notice?

Oregon. That is what we have heard throughout this process—there is one state in the Pacific Northwest that requires notice by first-class mail to all property owners when there is a proposed zoning change. As it happens, Oregon is a state that has famously experienced wild swings in its land use laws, from extremely restrictive

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zoning regulations to extreme “landowner rights” provisions. To call Oregon an outlier is an understatement; its land use laws are about as relevant to New Hampshire as Nevada’s laws on gambling or divorce. In contrast, NHMA’s proposal is well within the mainstream and in fact is rather progressive in comparison to the laws in other New England states.

SB 228 as passed by the Senate doesn’t work, and while we certainly appreciate the work of the subcommittee, its proposed amendment is only a modest improvement. The subcommittee is meeting again at **9:30 a.m. on Tuesday, April 29**, and the full committee will take up the bill at 10:00 a.m. the same day. ***Please contact members of the [Municipal and County Government Committee](#) before Tuesday and urge them to either pass the NHMA amendment or kill the bill.***

Road Toll Increase Passes House!

On Wednesday, by a vote of 193-141, the House passed **SB 367, an NHMA policy bill**, which increases the road toll (gas tax) by 4.2 cents effective July 1, 2014. The bill now heads to Governor Hassan for her signature.

We have reported extensively on this bill during this session, explaining the importance to municipalities of this increase in terms of highway block grant funding, municipal bridge aid, highway betterment, and completion of I-93. Please be sure to thank your state representatives who supported **SB 367** this week. Here is the [roll call](#) on the road toll bill.

Paint Stewardship Bill Recommended

The Senate Energy and Natural Resources Committee voted this week to recommend **HB 1570**, establishing a paint stewardship program, as Ought to Pass with Amendment. The bill will go to the full Senate next week. The committee vote was 3-2, and we expect a close vote in the Senate.

As we explained in [Bulletin #15](#), NHMA supports **HB 1570** because it will save municipalities significant money that is currently spent to dispose of oil-based paint at household hazardous waste days, as well as latex paint that adds to the cost of regular solid waste disposal. We expect the bill to be attacked as establishing a new tax, but it is not a tax. If anything, it is an “anti-tax,” because it puts the cost of paint disposal on the users who create the need, rather than on taxpayers who may or may not be buying and discarding paint.

Please urge your senator to [support HB 1570](#) as a measure to reduce municipal waste disposal costs.

Senate to Hear Sales Chasing Bill

On **Tuesday, April 29, at 9:15 a.m., in State House Room 103**, the Senate Executive Departments and Administration Committee is scheduled to hear **HB 1110**. This bill authorizes the Assessing Standards Board (ASB) to adopt administrative rules, rather than adopting standards and recommending legislation, relative to the definition and practices that constitute sales chasing and associated penalties for knowingly committing sales chasing.

Veterans' Preference Bill Tabled

We only recently began paying close attention to **SB 296**, a bill that would establish a “veterans’ preference” in hiring for public employment. We must confess that we originally misread the bill as applying only to the state, but a more recent read confirmed that it would also apply to political subdivisions.

The bill would require public employers to give a preference to veterans when hiring for a “civil service position,” defined as “a position that requires merit-based selection and promotion to be ascertained by competitive examination.” The preference would be five points added to a veteran’s score and ten points added to a disabled veteran’s score. If a public employer uses an application examination that does not result in a score, it would be required to “devise and apply methods by which it gives special consideration in the hiring decision to veterans and disabled veterans.”

The bill began to raise concern when we realized that it applied to cities and towns, as there is significant confusion about how and when it would apply, and how municipalities would comply with it. We believe no one objects to the idea of providing an advantage to veterans, but this bill leaves a number of questions unanswered.

Fortunately, the House voted on Wednesday to table the bill, largely because of confusion over some of these questions. We believe it is likely to stay on the table, but will watch it closely. In the meantime, please express your concerns about the bill to your representatives.

HOUSE CALENDAR

Joint House/Senate Meetings Are Listed Under This Section

TUESDAY, APRIL 29

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:30 a.m. **SB 207-FN**, relative to paycheck equity.

11:00 a.m. **SB 390**, (New Title) prohibiting discrimination against employees who are victims of domestic violence and establishing a committee to study the protection of employees from domestic violence.

SENATE CALENDAR

TUESDAY, APRIL 29

JUDICIARY, Room 100, SH

10:00 a.m. **HB 1237**, prohibiting residency restrictions on registered sex offenders and offenders against children.

WAYS AND MEANS, Room 103, SH

9:00 a.m. **HB 1590-L**, relative to the valuation of the Granite Reliable Power project in Coos county.

9:15 a.m. **HB 1549**, relative to assessment of renewable generation facility property subject to a voluntary payment in lieu of taxes agreement.

WEDNESDAY, APRIL 30

ENERGY AND NATURAL RESOURCES, Room 101, LOB

9:00 a.m. **HB 532**, relative to energy efficiency and clean energy districts.

9:15 a.m. **HB 1383**, relative to municipal monitoring of large groundwater withdrawals.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, SH

9:00 a.m. **HB 1110**, relative to the penalty for sales chasing by certified assessors.

TUESDAY, MAY 6

JUDICIARY, Room 100, SH

9:00 a.m. **HB 312**, restricting the collection of biometric data by state agencies, municipalities, and political subdivisions.

9:15 a.m. **HB 498**, permitting the use of firearms by military or veterans groups in the compact part of a town for military or veterans events, or national holidays.

HOUSE FLOOR ACTION

Wednesday, April 23, 2014

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. **Ought to Pass with Amendment.**

SB 207-FN, relative to paycheck equity. **Ought to Pass; referred to CJ&PS.**

SB 216, relative to designating an alternate trustee of the trust fund. **Ought to Pass.**

SB 219, relative to funds received from the sale of cemetery lots. **Ought to Pass.**

SB 236, relative to delivery of the final budget and recommendation of the municipal budget committee to the governing body. **Ought to Pass with Amendment.**

House Floor Action - continued

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

SB 275, relative to refusal to certify an absentee ballot application. **Ought to Pass.**

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 296, relative to preferences for veterans and disabled veterans in public employment. **Laid on Table.**

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. **Ought to Pass. NHMA Policy.**

SB 315-FN, establishing the board of building officials. **Interim Study.**

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

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

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. **Ought to Pass. NHMA Policy.**

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

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

SENATE FLOOR ACTION

Thursday, April 24, 2014

HB 422, relative to the adoption, revision, and amendment of municipal charters. **Ought to Pass with Amendment.**

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. **Ought to Pass with Amendment.**

Senate Floor Action - continued

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

HB 1156-FN, making certain changes to the right-to-know law and establishing the right-to-know oversight commission. **Inexpedient to Legislate.**

HB 1249, relative to refunds of the road toll paid by an exempt governmental entity using a credit or fuel card. **Ought to Pass.**

HB 1336, relative to the landlord's agent requirement. **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 with Amendment; referred to Finance.**

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

HB 1567-FN, requiring a warrant to obtain electronic device location information. **Interim Study.**

HB 1619-FN, prohibiting the acquisition, collection, or retention of certain information. **Laid on Table.**

HB 1620-FN, relative to the use of drones. **Interim Study.**

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.

Thursday, May 1: Littleton Opera House, 2 Union Street
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.