

# LEGISLATIVE BULLETIN

Bulletin #19

2014 Session

May 9, 2014

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## Committee of Conference Season

The House and Senate have finished all committee hearings for the year. Yesterday was the deadline for all bills to be reported out of committee, so all action next week will be on the floor of the House and Senate, as both chambers must take final action on their bills by Thursday, May 15.

In addition to passing or killing the bills before them, each chamber will decide what to do with bills that have been amended by the other chamber and sent back to them—*i.e.*, the House will decide what to do with House bills that have been amended by the Senate, and the Senate will decide what to do with Senate bills amended by the House. In most cases the decision will be either to concur with the changes and send the bill to the Governor, or not concur and request the formation of a committee of conference. A third option, to not concur and simply let the bill die, is used less often.

A number of committees of conference have already been requested, and some appointments to the committees have been made. The committees will begin meeting after May 15, with most of the activity occurring between May 22 and May 30, which is the deadline to finish committee of conference reports. Final House and Senate sessions will be held the first week in June to act on committee of conference reports—most likely, the House will meet on Wednesday, June 4, and the Senate on Thursday, June 5.

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## A Scare on MET Expansion

This week a proposed amendment to the Medicaid Enhancement Tax (“MET”), not ordinarily a matter of municipal interest, raised concerns about a significant impact on municipalities. The danger appears to have passed for now, but local officials should continue to pay attention.

As many readers are aware, two recent New Hampshire Superior Court decisions have ruled that the MET is unconstitutional because of the

### **MET Expansion** - continued

way it is applied. Those decisions, if they stand, would result in a significant loss of revenue for the state. To avoid that result, legislators in the House and Senate are proposing several different amendments to the tax.

One of those amendments, introduced in the House Ways & Means Committee this week, proposed to expand the application of the tax, which currently applies only to hospitals. The amendment would have applied the tax to certain other classes of health care services, one of which was “emergency ambulance services.” There was no exemption for government entities, so the amendment appeared to impose a five percent tax on municipal ambulance services, whether provided directly by the municipality or by a private company under contract with the municipality. We do not believe that was the sponsors’ intent, but the amendment as drafted raised the real possibility that municipalities would be paying a tax to the state. NHMA and others expressed concern about this at a hearing before the committee.

The [amendment](#) that emerged from the committee takes a different approach. It makes a different set of changes to the MET, which do not appear to have a municipal impact; but it also includes a contingency providing that if those provisions are found unconstitutional, the expansion of the MET to other health care services—including emergency ambulance services—will take effect. However, this version includes an exemption for “any ambulance services paid for or furnished by the federal government or any state or municipal public body.” With this exemption, it appears that even if the contingent amendment takes effect, there will be no tax on municipal ambulance services. We thank the committee and the amendment’s sponsors for including this exemption.

Again, it appears that the danger has passed, but there is still a long way to go on this issue. The Senate appears poised to adopt a different MET amendment, so there is likely to be a committee of conference, and anything is possible at that point. We will watch the issue closely.

### **Veterans’ Preference Revived**

As mentioned last week, **SB 296**, the bill giving a preference to veterans and disabled veterans in hiring for certain public employment positions, remains on the table in the House. However, as we also mentioned last week, this is the time of year when legislation that is derailed in one chamber tends to pop up without warning in the other. Thus, the Senate Executive Departments and Administration Committee voted this week to add the language of **SB 296** to another bill, **HB 498**, which has to do with the use of firearms in the compact part of a town for military or veterans’ events and holiday celebrations. That bill will go to the Senate floor next week.

The good news is that the bill’s sponsor has assured us that **SB 296** was never intended to apply to cities and towns; it is intended to apply only to the state government. The plan is to clarify this when the bill gets to a committee of conference. We will continue to watch the bill carefully, but this is encouraging.

## More Flood Control Activity

On Wednesday the House killed **SB 370**, which would have reimbursed municipalities in the Merrimack River Flood Control compact approximately \$1 million for the amount they were shorted in payments-in-lieu-of-taxes for fiscal years 2012 and 2013. This money was to come from the recent settlement agreement with Massachusetts, which covered fiscal year 2012 and all prior years. As reported in last week's *Bulletin*, this House action was expected.

On Thursday, the House Finance Committee recommended further action regarding flood control payments by amending **SB 283**, a bill dealing with settlements received by the Attorney General's office. The amendment repeals chapter 144, section 126, of the Laws of 2013 (HB 2 from last year's budget), which is the provision requiring the Attorney General's office to transfer \$250,000 from its budget to ensure full funding of flood control payments to municipalities in fiscal year 2015. However, the amendment also requires the Department of Revenue Administration to "fund under RSA 122:4, I, any shortfall in fiscal year 2015 flood control payments." The existing language in RSA 122:4, I states that the funding for flood control payments comes from any money in the treasury "not otherwise appropriated." The effect of the amendment to **SB 283** is to ensure that municipalities in the flood control compacts will receive full payments in fiscal year 2015, whether or not the other states in the compact make the required payments to New Hampshire.

## Interim Study Sessions Begin

A few bills that were sent to interim study have already been scheduled for work sessions in their House committees. These sessions will be held between now and the fall, with interim study reports to be filed by October 31. Some bills will get serious study, and others a little less so. In the end, however, the bill is dead, and the committee's only charge is to determine whether the bill is "recommended for future legislation." A positive recommendation means nothing unless one or more legislators actually choose to file new legislation next year, and a negative recommendation does not prohibit someone from filing the same legislation next year.

The last *Legislative Bulletin* for the year will be published on June 6. After that, if you are interested in a bill that has been sent to interim study, you can follow its progress by checking the House and Senate calendars. (Go to [www.gencourt.state.nh.us](http://www.gencourt.state.nh.us) and click on "House Calendars and Journals" or "Senate Calendars and Journals.")

## HOUSE AND SENATE CALENDARS

### **FRIDAY, MAY 16**

**COASTAL RISK AND HAZARDS COMMISSION (RSA 483-E),  
Town Hall, Newington**

10:00 a.m. Regular meeting.

## HOUSE FLOOR ACTION

Wednesday, May 7, 2014

**SB 203**, relative to permissible uses of electronic benefit transfer (EBT) cards. **Interim Study.**

**SB 210**, relative to registration of vehicles by motor vehicle manufacturers. **Ought to Pass.**

**SB 228**, (New Title) relative to notice of changes to zoning districts. **Interim Study.**

**SB 233**, relative to property tax exemption for district fire mutual aid systems. **Ought to Pass with Amendment.**

**SB 272**, relative to notice of voter registration. **Inexpedient to Legislate.**

**SB 286**, relative to abatements for prior years' property taxes. **Interim Study.**

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

**SB 333**, relative to property taxation of manufactured housing. **Ought to Pass with Amendment.**

**SB 339-FN**, (New Title) relative to instituting a credit card affinity program in which fees received are directed to offset the retirement system's unfunded liability. **Ought to Pass.**

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

## SENATE FLOOR ACTION

Thursday, May 8, 2014

**HB 685**, relative to state agency communications. **Ought to Pass with Amendment.**

**HB 1110**, relative to the penalty for sales chasing by certified assessors. **Ought to Pass.**

**HB 1168**, relative to employer documentation of worker eligibility to work in the United States. **Ought to Pass with Amendment.**

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

**Senate Floor Action** - continued

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

**HB 1403-FN**, establishing a state minimum hourly wage. **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 1549**, relative to assessment of renewable generation facility property subject to a voluntary payment in lieu of taxes agreement. **Ought to Pass.**

### **NHMA Webinar**

#### **Legislative Wrap Up**

Date: June 11, 2014

Time: 12:00 noon - 1:00 PM

Contact Phone: 603.224.7447

Join us on Wednesday, June 11 at noon!

Join Government Affairs Counsel Cordell Johnston and Government Finance Advisor Barbara Reid for a review of the highlights of the 2014 legislative session. This will be one week after the legislative session ends, so except for possible vetoes, all legislative action will be final.

This webinar will discuss the most significant bills of municipal interest that made it through the legislature this year, as well as a few that failed but may be back next year. The discussion will include, among others, legislation on highway funding, municipal charters, town meeting issues, 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!\*\*](#)

## Current Issues Under the Right-to-Know Law Workshop

Date: May 13, 2014

Time: 6:30—8:30 p.m.

Location: Madison Elementary School, 2069 Village Road, Madison

Contact Email: [NHMAregistrations@nhmunicipal.org](mailto:NHMAregistrations@nhmunicipal.org)

Contact Phone: 800.852.3358, ext. 3350

NHMA is hosting a *free* workshop addressing *Current Issues Under the Right-to-Know Law*, presented by an NHMA attorney, at the Madison Elementary School in Madison, New Hampshire.

This free program will provide a detailed review of recurring questions under RSA 91-A, New Hampshire's Right-to-Know Law. Issues addressed will include dealing with confidential information, procedures for non-public sessions, electronic records and communications, and charging for costs of providing records.

A general review of the Right-to-Know Law will be included, and there will be ample time for questions and answers on all aspects of the law.

This program is open to *NHMA members only*. [\*Click here to Register Today!\*](#)