

LEGISLATIVE BULLETIN

Bulletin #2

2015 Session

January 9, 2015

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Bills Out, Hearings Scheduled

As you will see later in this *Bulletin*, a small number of bills have been published. Many more are on their way, and we will include a list of all new bills affecting municipalities as they are released over the next few weeks.

For each bill, we list the bill number, the title, the prime sponsor, and the House or Senate committee to which the bill has been referred. Committee names are abbreviated, and a glossary of abbreviations appears in this *Bulletin* after the list of bills. We will not include the glossary in future *Bulletins*, so please save this one for future reference.

Although most committees are using next week just for organizational meetings, a few hearings have been scheduled, including some of interest to municipalities, as discussed in the next article.

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Committee Will Hear Right-to-Know Law Bills

The House Judiciary Committee has scheduled hearings for next week on two bills that would amend the Right-to-Know Law. The hearings are scheduled for **Thursday, January 15, in LOB Room 208, beginning at 10:00 a.m.**

The first bill, **HB 138**, scheduled for **10:00 a.m.**, is of some concern. It adds a sentence to RSA 91-A:4, IV, stating, “No fee shall be charged to make a governmental record available for inspection.” Depending on how this is interpreted, it may or may not be objectionable. From a discussion with the sponsor, we believe the intent is to prohibit the charging of a fee for the mere act of making a record available for inspection when minimal effort is required to retrieve the record. If that is the effect, that is fine: no one should be charged a fee just to inspect a governmental record that is readily available.

However, many local officials have had the experience of spending long hours retrieving and reviewing records in response to a voluminous request. NHMA members have adopted a policy in favor of legislation that allows public bodies and agencies to recover the reasonable labor

RTK Law Bills - continued

cost of retrieving and reviewing records in that circumstance. If a record request requires ten hours of staff time to assemble the records and five hours of lawyer time to review them for confidentiality concerns, the municipality should be able to recover at least part of that cost. In fact, a bill that has yet to be released would allow exactly that. To the extent **HB 138** may be interpreted to prohibit recovering the cost of labor, we would need to oppose it. We assume the committee will take no action on **HB 138** until it hears the NHMA policy bill, and we will ask the committee to consider them together.

We are less concerned about the second bill, **HB 108**, which is scheduled for **11:00 a.m.** and deals with minutes of non-public sessions. It does two things. First, it clarifies that the minutes of non-public sessions must be kept in the same manner as those for public sessions. We believe that is already the law, and if the legislature wants to emphasize the point, that's fine.

Second, the bill provides that if a board is going to vote to seal its non-public minutes, it must do so in public session. That does represent a change, because the current law is silent about whether the vote to seal non-public minutes should occur in public or non-public session. We receive questions about this all the time; we advise officials that the law does not specify, so it is permissible to do it in either public or non-public session, but we believe the better practice, in the spirit of openness, is to do it in public session.

This bill would make the "better practice" a requirement. While this would limit public bodies' discretion somewhat, we don't see any real harm, and if it makes the law clearer, that is a good thing. There may be times when the discussion about sealing the minutes would itself reveal information that should remain private; but if that is the case, the discussion about sealing the minutes can be held in non-public session and the vote to seal can still be taken in public.

However, if you have any concerns about the bill, please contact us or members of the [Judiciary Committee](#), or consider speaking at the hearing.

Return of the Telephone Pole Exemption

As indicated above, only a small number of bills have been released so far. Only the LSR (Legislative Service Request) titles of the remaining bills are available right now, and the titles don't always provide much information ("relative to religious societies," "relative to party conventions").

Some titles, however, are painfully self-explanatory. That is the case with LSR number 0768, "reestablishing the exemption from property taxation for telecommunications poles and conduits." This, of course, is the infamous telephone pole exemption that, for years, allowed a few for-profit businesses to escape millions of dollars in property taxes at the expense of individual taxpayers and other businesses.

Pole Exemption - continued

The exemption, which was always intended to be temporary, expired as scheduled in 2010, and legislation to reinstate it was killed in the House in 2010, 2011, and 2012. For anyone who's counting, that's once in a Democratic House and twice in a Republican House, so obviously there is strong bipartisan opposition to the exemption.

Still, some bad ideas never go away. It appears that this will be another bruising battle, and **now** is the time to get your legislators to join the opposition to this bill. Based on information provided by FairPoint a few years ago, enacting this subsidy would cost the city of Manchester's taxpayers, for example, about \$350,000. The cost would be over \$100,000 in each of Derry, Hudson, and Portsmouth, and tens of thousands of dollars in many other municipalities.

Again, the bill has not yet been released, and a hearing is probably a few weeks away, but please urge your legislators **now** to pledge their opposition to this property tax increase.

HOUSE CALENDARTUESDAY, JANUARY 13**ELECTION LAW, Room 308, LOB**

11:15 a.m. **HB 135**, relative to qualifications of assistant election officials.

WEDNESDAY, JANUARY 14**SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB**

11:00 a.m. **HB 132-L**, relative to time-based rates for electric service.

THURSDAY, JANUARY 15**JUDICIARY, Room 208, LOB**

10:00 a.m. **HB 138-FN**, relative to inspection of governmental records under the right-to-know law.

11:00 a.m. **HB 108-FN**, relative to the content and sealing of minutes in nonpublic sessions under the right-to-know law.

2015 NEW BILLS**House Bills**

[HB 102](#) requires that at every town meeting, every article in the warrant be acted upon prior to the adjournment of the town meeting. (Current law applies this requirement only in towns with 10,000 or more inhabitants.) Rep. J. Belanger of Hollis; **M&CG**.

[HB 107](#) decreases to three years the time trust fund bank statements must be retained by municipalities. Rep. Rappaport of Colebrook; **M&CG**.

New House Bills - continued

[HB 108-FN](#) provides that minutes for nonpublic sessions under the right-to-know law shall be kept as provided for public session minutes and requires that a vote to seal nonpublic session minutes be taken in public session. Rep. Horrigan of Durham; **JUD-H**.

[HB 109-FN-LOCAL](#) reduces the frequency of testing required for existing drinking water distribution system protective backflow prevention devices. Rep. Beaudoin of Rochester; **ED&A-H**.

[HB 110](#) specifies that political advertising on public property requires the governing body's consent. Rep. Gray of Rochester; **EL**.

[HB 112](#) deems a declaration of domicile for voting purposes to establish a place of residence for motor vehicle law purposes. Rep. Chandler of Bartlett; **EL**.

[HB 115](#) repeals the requirement that the state operating budget allocate specific percentages of gross appropriations from the highway fund to the departments of transportation and safety. Rep. Richardson of Lancaster; **PW**.

[HB 127](#) authorizes ballot clerks to verify the identity of voters. Rep. Berch of Westmoreland; **EL**.

[HB 132-LOCAL](#) requires electric utilities to charge municipalities the off-peak rate for the duration of certain non-profit youth athletic events held on municipal fields. Rep. Marston of Manchester; **ST&E**.

[HB 133](#) requires notice by registered mail to voters requesting a recount on certain local questions and public posting of notice of the time and place of the recount. Rep. Byron of Litchfield; **EL**.

[HB 134](#) establishes a committee to study the use of motorized scooter chairs on roadways and sidewalks. Rep. Patten of Concord; **TRANS-H**.

[HB 135](#) clarifies the age qualifications of assistant election officials. Rep. Grenier of Lempster; **EL**.

[HB 138-FN](#) clarifies that a public body or agency shall not charge a fee to make a governmental record available for public inspection; provided, that a fee may still be charged for the actual cost of copying a public record. Rep. Horrigan of Durham; **JUD-H**.

[HB 139-FN](#) modifies the limitations on part-time employment under the New Hampshire retirement system during an emergency. Rep. Ratzki of Andover; **ED&A-H**.

Glossary of Abbreviations Used in Bill Descriptions and the Legislative Process

CACR	Constitutional Amendment Concurrent Resolution
CAP BUDGET	Capital Budget Committee (Senate)
C&FL	Children & Family Law Committee (House)
CJ&PS	Criminal Justice & Public Safety Committee (House)
COM-S	Commerce Committee (Senate)
COM-H	Commerce and Consumer Affairs Committee (House)
E&A	Environment & Agriculture Committee (House)
ED&A-S	Executive Departments & Administration Committee (Senate)
ED&A-H	Executive Departments and Administration Committee (House)
EDUC-H	Education Committee (House)
EDUC-S	Education Committee (Senate)
EL	Election Law Committee (House)
ENR	Energy & Natural Resources Committee (Senate)
F-S	Finance Committee (Senate)
F-H	Finance Committee (House)
F&G	Fish & Game and Marine Resources Committee (House)
FN	Fiscal Note
HB	House Bill
HHS	Health and Human Services Committee (Senate)
HHS&EA	Health, Human Services & Elderly Affairs Committee (House)
JUD-S	Judiciary Committee (Senate)
JUD-H	Judiciary Committee (House)
L	Local
LABOR	Labor, Industrial & Rehabilitative Services Committee (House)
LEGIS ADMIN	Legislative Administration Committee (House)
LOB	Legislative Office Building
M&CG	Municipal & County Government Committee (House)
PMA	Public and Municipal Affairs Committee (Senate)
PW	Public Works & Highways Committee (House)
RR&D	Resources, Recreation & Development Committee (House)
RULES & INT. AFF.	Rules, Enrolled Bills & Internal Affairs (Senate)
RULES	Rules Committee (House)
SB	Senate Bill
S-FR	State-Federal Relations & Veterans Affairs Committee (House)
SH	State House
ST&E	Science, Technology & Energy Committee (House)
TRANS-S	Transportation Committee (Senate)
TRANS-H	Transportation Committee (House)
W&M-S	Ways & Means Committee (Senate)
W&M-H	Ways & Means Committee (House)

NHMA Webinar

Moderator's Role at the Deliberative Session of Town Meeting

Date: Wednesday, January 14

Time: 12:00 pm—1:00 pm

Join Legal Services Counsel Stephen Buckley and Staff Attorney Margaret Byrnes to explore and discuss the role of the moderator at the town meeting deliberative session. We will discuss election of the moderator, vacancy and appointment, assistant moderators, moderator pro tem, the authority of the Moderator to set rules of procedure, authority of the town meeting to overrule the moderator, secret balloting, recounts, and the authority of moderator to control disorder at the meeting, Attention will be paid to the difference between a traditional town meeting deliberative session and an SB town meeting deliberative session. Specific examples will be offered on types of motions and amendments that can be made affecting warrant articles, and problems and circumstances that must be avoided to prevent disallowance of adopted warrants articles by the Department of Revenue Administration.

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

[Click Here to Register Today!](#)

2015 Town & School Moderators Workshops

SB 2 Meeting
Saturday, January 17
(Snow date: Saturday, January 24)

Traditional Meeting
Saturday, February 21
(Snow date: Saturday, February 28)

9 a.m.—12:30 p.m. 25 Triangle Park Drive, Concord, NH
Cost: \$40

Registration and continental breakfast begin at 8:30 a.m.

Attendees will receive a copy of NHMA's 2014 edition Town Meeting and School Meeting Handbook and a copy of the 2015 supplement.

Topics include:

The Basic Law of Town, Village District and School District Meeting

Statutes governing the moderator's duties at town, village district and school district meetings will be discussed along with issues related to warrant articles, the operating budget, secret ballot voting and other town meeting issues. These topics will be addressed in two concurrent sessions tailored for new and experienced moderators. Ample time will be devoted to questions and answers.

Strategies for Running a Smooth Meeting

Moderators are faced with a challenging task: keeping meetings focused and fair to all participants, while effectively facilitating the flow of debate. This session will highlight suggested strategies for running respectful and efficient meetings.

Sample Scenarios

A series of sample scenarios will help attendees prepare for a wide range of meeting challenges.



Register online at www.nhmunicipal.org under CALENDAR OF EVENTS. Online pre-registration required one week prior to each date. *Space is limited.*

Questions? Call 800.852.3358, ext. 3350 or email NHMAregistrations@nhmunicipal.org