

LEGISLATIVE BULLETIN

Bulletin #7

2015 Session

February 13, 2015

INSIDE THIS ISSUE:

Governor Presents Biennial Budget

<i>Cross-Border Liability</i>	2
<i>Telco Exemption</i>	3
<i>Mining Activities</i>	4
<i>Pollution Control Exemption</i>	4
<i>DRA Utility Valuation</i>	5
<i>RGGI Funding</i>	5
<i>Right-to-Know Costs</i>	6
<i>Perambulation Bill</i>	6
<i>Legislature and Bulletin Take a Break</i>	7
<i>Calendars</i>	7
<i>Floor Action</i>	9
<i>Moderators Workshop</i>	11

On Thursday afternoon, before a joint session of the House and Senate, the Governor presented her operating and capital budget proposals for the upcoming biennium which begins July 1, 2015 and ends June 30, 2017. Key themes in her presentation included providing a balanced budget without an income or sales tax, supporting a more innovative economic future, promoting a healthy, competitive workforce, protecting public safety, preserving the environment and natural resources, building a stronger energy future and honoring veterans. The Governor also noted that it was “a tight budget that reflects difficult choices.”

After the [budget address](#), the [Governor’s Executive Budget Summary](#) was distributed, which contains more detailed budget information. See page six for the figures for municipalities and schools. The summary acknowledges that cities, towns, and schools provide important services that ensure livable communities, public health and safety, and states that the budget attempts to continue important aid to municipalities, including the following:

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- Providing \$43 million in Fiscal Year 16 and \$44 million in Fiscal Year 17 for highway-funded municipal aid,
- Providing a \$5 million increase in the Meals and Rooms distribution to cities and towns (via the “catch-up” formula) in only the second year of the biennium (a potential loss of \$10 million over the biennium),
- Funding current obligations under the state aid environmental grants, at \$8 million and \$7.7 million for Fiscal years 16 and 17, respectively, (which effectively continues the moratorium enacted in 2013), and
- Fully funding the Land and Community Heritage Investment Program (LCHIP) at \$3.5 million per year.

Payments in lieu of taxes for flood control are included in the Governor’s budget, contingent upon receipt of revenues from the other states involved in the flood compacts. However, the \$4.9 million (appropriated last year in SB 229) for the state match to reimburse municipalities for federal disasters is not in the budget.

Budget - continued

Revenues to support the Governor's \$11 billion biennial budget proposal include a 21 cent increase in the cigarette tax, implementation of Keno and self-service lottery terminals, and an increase in motor vehicle registration fees.

Next week the House Finance Committee will begin reviewing what will be HB 1 - the details of the Governor's 1,268-page line-item budget document - and will no doubt make many changes. The House Finance Committee must complete its deliberations on the budget by March 26 for presentation to the full House for a vote on April 2. The House version of the budget will then head to the Senate Finance Committee where again, many changes will likely occur before the full Senate votes in early June on its version of the budget. Most often, but not always, a committee of conference will then be formed to reconcile the differences between the House and Senate versions of the budget.

As you can see, the Governor's budget proposal is really a starting point for what will be an intense and challenging process over the next several months to arrive at consensus on the state's revenues and expenditures for the next two years. We will be tracking this process closely and will keep you informed of changes affecting municipalities.

Hearing on Cross-Border Liability

The House Judiciary Committee will hear testimony next week on **HB 415, an NHMA policy bill** that would give out-of-state emergency service entities the same liability protection that New Hampshire entities would have when responding to an incident in New Hampshire. This bill was made necessary by an incident to which fire and rescue departments from both New Hampshire and Vermont responded. In the lawsuit that grew out of that incident, which was brought in state court in New Hampshire, the New Hampshire entities were shielded from liability under New Hampshire law, but the Vermont town was not.

Our concern is that if municipalities from neighboring states do not have the same protection in New Hampshire courts that a New Hampshire entity would have, they will be reluctant to cooperate with New Hampshire municipalities in responding to emergencies that occur near the border. This bill is intended to encourage interstate cooperation without fear of undue liability.

Any municipality that is near one of our state borders—and that's a lot of municipalities—should support this bill. The hearing is scheduled for **Tuesday, February 17, at 2:00 p.m., in LOB Room 208.**

Municipalities Rally to Oppose Telco Exemption

The House Ways & Means Committee heard testimony Friday on **HB 547**, the bill that would reinstate the notorious property tax exemption for telephone poles and conduits. Many municipalities were represented at the hearing, all opposing a bill that would reward a few for-profit businesses while raising property tax rates across the state. We thank representatives from the following municipalities who spoke or submitted written testimony in opposition to the bill: Manchester, Nashua, Concord, Portsmouth, Rochester, Franklin, Berlin, Pelham, Auburn, and Bow.

The committee will vote on the bill either next week or the week of March 1. If you haven't already done so, ***please contact [members of the committee](#)*** and tell them why they should kill this bill. Emphasize the effect this exemption will have on your municipality, in terms of either the total dollar amount or the increase in the tax rate.

Also, talk to your own representatives regularly, and keep reminding them to [kill HB 547](#). Here are some points for discussion:

- First, understand that *there is no such thing as a "pole tax."* Get that term out of your vocabulary. We are not dealing with a special "tax on poles," as supporters of this bill like to suggest. The tax involved here is the same property tax you pay on your house. The telecommunication companies are trying to avoid paying the same taxes that everyone else pays, because--well, just because they can. The issue here is a ***pole exemption***.
- Opposition to the pole exemption is strongly bipartisan. The last time the issue was put to a roll call vote, in 2012, the exemption was defeated 133-161. Of the 161 who voted against the exemption, 98 were Republicans and 63 were Democrats.
- Electric companies pay property taxes, and always have, on identical poles. In fact, most of the poles in the state are owned jointly by the telephone company and the electric company. Under this bill, the electric company would pay taxes on its one-half interest in a pole, while the phone company would be exempt on its one-half interest in the same pole.
- Supporters of the bill will claim that there is a "double tax," because telephone companies also have to pay the communications services tax. That is false. The *customer* pays the CST; the company merely collects it, in the same manner as restaurants collect the meals and rooms tax, or the grocery store collects the tobacco tax, or the electric company collects the electricity consumption tax.
- Supporters will also claim there is a double tax because telecommunication companies pay taxes separately on their use of the municipal right-of-way. Again, they are treated no differently from anyone else. Any person or entity that places property on municipal land must pay taxes on the use of the land. Electric and gas companies pay taxes on their poles and pipes, and they also

Telco Exemption - continued

pay taxes on the use of the municipal right-of-way that those fixtures occupy. This is analogous to a homeowner paying taxes on his or her house in addition to paying taxes on the land the house occupies. The telecommunication companies are being treated exactly the same as everyone else. **HB 547** is an effort to afford them special treatment.

- When it was first enacted in 1998, the pole exemption was intended to be temporary. It was enacted for *one year*. Subsequent legislatures repeatedly extended it, but it was always understood to be temporary. The expiration of the exemption in 2010 did not violate any “deal.”

If you or your legislators have any questions, you can read more [here](#) -- or go to www.nhmunicipal.org and click on the “Advocacy” tab at the top of the page, then “Ongoing Topics” on the left, then “Pole Exemption Facts.”

Thank you very much for your efforts.

Local Input on Mining Activities

The House Municipal and County Government Committee will hear testimony next week on two **NHMA policy bills** that would give municipalities more input into decisions regarding mining activities. **HB 233** and **HB 451** would clarify that RSA 12-E, the state mining and reclamation statute, does not preempt a local ordinance unless it is less stringent than the statute, and does not preempt local regulation of activities that are exempt from state regulation. If your municipality is affected by mining activities, please try to attend the hearings, or contact [committee members](#) and let them know you support these bills.

Both hearings are scheduled for **Tuesday, February 17, in LOB Room 301**. **HB 451** is scheduled for **9:45 a.m.**, and **HB 233** is scheduled for **10:20 a.m.**

Gravy Train Keeps Rolling

The Municipal and County Government Committee voted this week to continue the taxpayer-funded subsidy to needy companies like PSNH, NextEra, and Anheuser-Busch. By a 15-1 vote, the committee recommended killing **HB 224**, the **NHMA policy bill** that would repeal the “pollution control” exemption.

This came after a subcommittee work session in which a standing-room-only crowd of lobbyists once again touted their clients’ good works and predicted layoffs, price increases, and plant closings if they had to pay property taxes like everyone else. Sniff, sniff. A representative of Anheuser Busch also threatened to move its facility to New York if the exemption wasn’t continued, and the Department of Resources and Economic Development submitted a letter touting the exemption’s importance in attracting businesses to New Hampshire, without citing a single example of this effect.

Gravy Train - continued

Those questionable tactics were enough to sway most committee members. A few, but not enough, suggested that the bill should be retained so they could try to find a solution to an issue that comes back to the legislature almost every year. A few others, but again not enough, supported phasing the exemption out over five or ten years.

This issue is not going to go away. There will be a floor fight in the House, and if that fails, the issue will be back next year. Until legislators stop shifting millions of dollars in tax obligations from major corporations to homeowners and small businesses, they will keep hearing from us and municipalities.

The bill is expected to go to the full House on **March 4**. Please remind your legislators that they work for the citizens of New Hampshire, not for NextEra and Anheuser-Busch, and urge them to **support HB 224**.

Committee Supports Utility Valuation Bill

On a brighter note, the same committee voted 11-4 to recommend passage of **HB 192**, another **NHMA policy bill**, which would prohibit the use of DRA appraisal numbers in appeals of local utility property tax assessments. This bill was explained in some detail in [Bulletin #4](#) (page 2). Electric utilities are currently seeking many millions of dollars in abatements from municipalities based on the use of DRA's appraisals in a manner that was never intended, and passage of **HB 192** would go a long way toward thwarting those efforts.

Despite the favorable committee vote, House passage of the bill is far from certain, as we expect the utilities will be lobbying very hard. If your municipality is currently in litigation with an electric company, you need this bill. ***It is critical that you let your legislators know how much money is at stake for your municipality. We expect the bill to go to the House floor on March 4. Please contact your legislators before then.***

Amendment Strips RGGI Funding

The House Science, Technology & Energy Committee heard testimony a few weeks ago on **HB 208**, which, as introduced, would have repealed the Regional Greenhouse Gas Initiative (RGGI). NHMA submitted a letter in opposition to the bill, because up to \$2 million a year in revenue from the sale of carbon dioxide allowances under RGGI is allocated to municipal energy efficiency projects. A number of municipalities have already benefited greatly from this program.

The committee met last week and, by a narrow margin, recommended an amended version of the bill. The amended bill would not repeal RGGI--it would just repeal the municipal funding! This is not what we had in mind.

RGGI Funding - continued

The committee amendment would return all of the proceeds to electric customers in the form of rate reduction. While we are certainly in favor of lower electric rates, that goal should not be pursued at the expense of a program that is already reaping significant rewards. Every dollar spent on energy efficiency is recovered many times over in cost savings--which means lower property taxes.

The full House is scheduled to vote on **HB 208** next week. If your municipality has benefited from the RGGI energy efficiency program--or if you merely want that opportunity in the future--please contact your representatives and urge them to *oppose HB 208 in any form*.

Right-to-Know Law Hearing Recessed Before Completion

A large crowd of supporters and opponents turned out for Thursday's hearing on **HB 646**, the **NHMA policy bill** that would allow public bodies and agencies to charge a small amount for the labor involved in responding to Right-to-Know Law requests. Local officials from Manchester, Portsmouth, North Hampton, Keene, and Pelham came to talk about the toll that voluminous requests take on their municipalities. Unfortunately, the hearing started late, and there were so many witnesses that none of the local officials got a chance to speak before the hearing was recessed to a later date. As this *Bulletin* goes to press, we do not know when the hearing will continue; we were told it would be either **February 19** or **March 3**. We will notify interested parties when we hear. If you were not among those present and would like to be notified of the rescheduled hearing, please let us know.

Committee Votes to Kill Perambulation Bill

The Municipal and County Government Committee on Thursday voted unanimously, with no discussion, to recommend killing **HB 250**, the **NHMA policy bill** that would have eliminated the quaint but hopelessly obsolete requirement that selectmen perambulate all of their town boundaries at least once every seven years. The committee had before it information that no other state requires regular perambulation, and there have been few reports of territorial wars in the other 49 states. The bill would have left perambulation in place for those rare occasions when there is a dispute about a boundary line. The committee also heard testimony that very few New Hampshire towns actually comply with the current requirement.

We have no idea why the committee voted to kill the bill. Opposition to the bill came primarily from a group of surveyors, who expressed a strangely passionate concern for the integrity of town lines.

It seems unlikely that there will be an effort to overturn the committee's recommendation, so selectmen will have to continue perambulating just as frequently as they have been. The good news? There is no requirement in the statute to incur the cost of a surveyor in the process.

Legislature and Legislative Bulletin to Take a Break

With perhaps a few exceptions, the legislature and its committees will not be meeting during the week of February 22. We therefore do not expect to publish a *Legislative Bulletin* next Friday, February 20. Weekly publication will resume on February 27, and if any urgent action is needed in the meantime, we will issue a Legislative Alert.

HOUSE CALENDAR

Joint House/Senate Meetings Are Listed Under This Section

TUESDAY, FEBRUARY 17

COMMERCE AND CONSUMER AFFAIRS, Room 302, LOB

1:15 p.m. **HB 596-FN-L**, relative to health insurance plans of public employers.

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:30 a.m. **HB 568-FN**, requiring a supervisory law enforcement officer to arrest a law enforcement officer when the supervisor knows that the law enforcement officer has committed a criminal offense.

11:00 a.m. **HB 669-FN-L**, requiring law enforcement agencies to report on the receipt of certain equipment and grants from the federal government and on the deployment of tactical teams.

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

10:00 a.m. **HB 660-FN**, relative to small farms and farmstands.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB

10:30 a.m. **HB 475**, prohibiting the state from engaging in acts of civil forfeiture.

11:30 a.m. **HB 510**, establishing a commission to study the regulation of pawnbrokers, secondhand dealers, and junk or scrap metal dealers.

JUDICIARY, Room 208, LOB

2:00 p.m. **HB 415**, limiting liability of out-of-state emergency services entities responding to incidents in New Hampshire. **NHMA Policy**.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

In Representatives Hall

1:00 p.m. **HB 402-FN**, establishing the Franklin Partin right-to-work act.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

9:45 a.m. **HB 451**, relative to local approval of mining permits.

10:00 a.m. **HB 335**, relative to the disposition of rangeways.

10:15 a.m. **HB 689**, relative to adoption of a default budget.

10:20 a.m. **HB 233**, relative to local approval of mining activity.

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

1:30 p.m. Subcommittee work session on **HB 667-FN**, relative to aquatic invasive species and authorizing a program to inspect boats for the presence of aquatic invasive species.

2:30 p.m. Subcommittee work session on **HB 349**, relative to state buffers for projects requiring wetland permits.

House Calendar - continued**TRANSPORTATION, Room 203, LOB**

- 10:30 a.m. **HB 374**, permitting certain vehicles to proceed through an intersection after stopping for a red light.
- 1:20 p.m. **HB 469**, relative to highway surveillance.

WAYS AND MEANS, Room 104, LOB

- 9:00 a.m. Subcommittee work session on **HB 278**, relative to town clerk fees for fill and dredge permit applications.
- 9:30 a.m. Subcommittee work session on **HB 359**, allowing municipalities in Carroll county to offer property tax exemptions to foster commercial and industrial construction.

THURSDAY, FEBRUARY 19**CRIMINAL JUSTICE AND PUBLIC SAFETY, Rooms 201-203, LOB**

- 10:30 a.m. **HB 582-FN**, repealing the license requirement for carrying a concealed pistol or revolver.
- 1:00 p.m. **HB 512**, prohibiting confiscation of firearms, ammunition, or firearms accessories during a state of emergency.
- 2:00 p.m. **HB 685-FN**, prohibiting a state agency, state employee, or political subdivision from enforcing any federal law regarding a firearm, firearm accessory, or ammunition.

JUDICIARY, Room 208, LOB

- 10:00 a.m. **HB 447**, relative to quorums for meetings under the right-to-know law.
- 10:45 a.m. **HB 613**, relative to governmental records exempted under the right-to-know law.
- 11:30 a.m. **HB 633-FN**, establishing a right-to-know grievance commission and relative to notice of meetings under the right-to-know law.
- 1:30 p.m. **HB 636-FN**, relative to forfeiture of property.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 206, LOB

- 10:00 a.m. **HB 600-FN**, relative to paid sick leave for employees.
- 10:45 a.m. **HB 658-FN**, prohibiting collective bargaining agreements that require employees to join a labor union.

WAYS AND MEANS, Room 202, LOB

- 2:00 p.m. **HB 679-FN**, establishing tax deferrals for expansion of natural gas distribution systems.

FRIDAY, FEBRUARY 20**WAYS AND MEANS, Room 202, LOB**

- 11:00 a.m. **HB 680-FN-L**, relative to establishing the rate for and the collection of the education property tax and establishing a homestead exemption from the education property tax.
- 11:30 a.m. **HB 681-FN-A**, increasing the marriage license fees.

SENATE CALENDAR

TUESDAY, FEBRUARY 17

COMMERCE, Room 100, SH

- 1:40 p.m. **SB 219-FN**, relative to breastfeeding.
 2:20 p.m. **SB 107-FN**, prohibiting collective bargaining agreements that require employees to join or contribute to a labor union.

EDUCATION, Room 103, LOB

- 10:30 a.m. **SB 227**, relative to calculating the cost of an adequate education.
 11:00 a.m. **SB 228-FN-L**, relative to the maximum total education grant, adjustment of stabilization grants, and adequate education funding for full-day kindergarten pupils.

HEALTH AND HUMAN SERVICES, Room 101, LOB

- 1:00 p.m. **SB 135-FN**, relative to lead poisoning in children.

JUDICIARY, Room 100, SH

- 9:40 a.m. **SB 205-FN**, relative to the governor's office and the legislature under the electioneering law.

WEDNESDAY, FEBRUARY 18

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

- 9:00 a.m. **SB 198-FN-L**, allowing all voters to vote by absentee ballot.
 10:45 a.m. **SB 83**, relative to the powers of conservation commissions.

House Floor Action

Wednesday, February 11, 2015

HB 107, relative to the retention of municipal trust fund bank statements. **Passed with Amendment.**

HB 130, relative to the use of blue lights on emergency vehicles. **Passed with Amendment. NHMA Policy.**

HB 133, relative to recounts on questions. **Passed with Amendment.**

HB 145, allowing municipalities to dedicate a percentage of timber yield taxes to the conservation fund. **Inexpedient to Legislate.**

HB 154, relative to the power of towns to adopt bylaws and ordinances. **Inexpedient to Legislate.**

HB 155, relative to municipal contracts for police chief. **Passed.**

HB 166-L, relative to records storage by municipalities. **Passed.**

Floor Action - continued

HB 176-FN-A-L, relative to towns affected by the Merrimack River flood control compact and the Connecticut River flood control compact and making an appropriation therefor. **Inexpedient to Legislate. NHMA Policy.**

HB 178, relative to exclusions from seasonal highway weight limit regulations. **Passed.**

HB 182, establishing a committee to study alternative public employee retirement plans. **Inexpedient to Legislate.**

HB 186, enabling the department of environmental services and the town of New Ipswich to negotiate an agreement regarding the encroachment of the town cemetery on state land. **Inexpedient to Legislate.**

HB 254, relative to exceptions to restrictions on boating. **Passed with Amendment.**

HB 275, relative to the encroachment of a town cemetery on state-owned land. **Passed.**

HB 314, establishing a commission to study the charitable status of certain non-profit organizations for purposes of state and local taxation. **Inexpedient to Legislate.**

HB 344, relative to membership on advisory boards for municipal economic development and revitalization districts and relative to the financing plan of such districts. **Passed. Referred to W&M-H.**

HB 362, relative to the reliability of the electric grid. **Passed with Amendment.**

HB 492, relative to military and historic reenactments and commemorations. **Re-committed.**

Senate Floor Action

Thursday, February 12, 2015

SB 13, relative to the disposition of dedicated funds. **Passed.**

SB 17, relative to training of certain board officers of nonprofit corporations. **Inexpedient to Legislate.**

SB 20-FN-L, (New Title) establishing a committee on historic burial grounds and cemeteries. **Passed with Amendment.**

SB 63, relative to membership of the board of directors for the New Hampshire rail transit authority. **Passed with Amendment.**

Floor Action - continued

SB 79, relative to appointment of inspectors of election. **Laid on Table.**

SB 98, relative to third party review required by the planning board. **Passed with Amendment.**

SB 106-FN, restricting the sale or possession of synthetic drugs. **Passed with Amendment.**

SB 116-FN, repealing the license requirement for carrying a concealed pistol or revolver. **Passed.**

SB 129-FN, allowing retired members of the retirement system to change an optional allowance election in certain circumstances. **Re-referred to committee.**

SB 141, relative to powers of the zoning board of adjustment. **Passed.**

SB 143, relative to defining phased development. **Passed.**

SB 196-FN-A-L, appropriating funds to the department of environmental services for the purpose of funding eligible water supply land protection costs under the state aid grant program. **Laid on Table. NHMA Policy.**

SB 229-FN-A, appropriating funds to the department of environmental services for the purpose of restoring and protecting waters of the southeast watershed in accordance with EPA guidelines. **Laid on Table.**

SB 231, relative to the month of inspection for municipal fleets. **Passed with Amendment.**

Please see our website: www.nhmunicipal.org for more information on the:

2015 Moderators Workshops

Traditional Town Meeting

Saturday, February 21 [Snow date: February 28]

[Register online](#) today!