

LEGISLATIVE BULLETIN

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March 13, 2015

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Good-Bye and Hello

This week marked the end, or in some cases just a short suspension, of public service for many selectmen, moderators, town clerks, treasurers, tax collectors, land use board members, and other local officials. We thank all of you for the time and energy you have devoted to public service, including your work on behalf of NHMA. For those who have never served in local government, it is difficult to appreciate how much work and time are involved, and how thankless the task can be. We hope you will enjoy your time off.

Meanwhile, we enthusiastically welcome all of the new officials. We look forward to working with you in the coming years. Please be sure to let us know the e-mail addresses of the new officials in your town who should receive the *Legislative Bulletin*, so we can provide them with the latest legislative news. You can e-mail address changes to governmentaffairs@nhmunicipal.org.

Some who are new to local government may not fully appreciate the extent to which state legislation affects what happens at the local level—but you will learn quickly. We hope you will read the *Legislative Bulletin*, get to know your legislators, think about what you can do to influence state policy, and let us know when you have questions or ideas.

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Proposed Budget Cuts to Municipalities

This week Divisions I, II, and II of the House Finance Committee sharpened their scissors in an effort to craft a two-year state budget that does not rely on many of the revenue increases that the Governor proposed in her budget last month. By our tally, the reduction to municipalities (so far) that the Governor and the Divisions are proposing, compared to historical funding levels and what would be required under current law without amendment, is approximately **\$42 million over the biennium**, as follows:

- Freezing of meals and rooms tax distributions at the 2015 level, a **potential loss of \$15 million** over the biennium.

Proposed Budget Cuts - continued

- Continuation of the moratorium on any new environmental grants so that only current obligations (grants that have already received Governor and Executive Council approval) for state aid would be funded, **a potential loss of a minimum of \$7.1 million** over the biennium.
- An amendment to the flood control reimbursement provision that, from a practical standpoint, discontinues all future payments in lieu of taxes to the 18 municipalities involved in flood control compacts, **a loss of \$1.65 million** over the biennium.
- Elimination of the annual \$6.8 million in highway funds for municipal bridge aid, an amount that was supposed to be *supplemented* by \$6.8 million from the road toll increase enacted last year in order to reduce the 10-year wait list for state assistance and reduce the number of municipal red-listed bridges, **a loss of \$13.6 million** over the biennium.
- Elimination of the funding enacted last year in **SB 409** to compensate municipalities for the state match (12.5%) toward federal disaster assistance grants, **a loss of \$5 million**.

And the amounts above do not even account for the significant reductions in state aid municipalities have already suffered since 2010, which include suspension of revenue sharing at **\$50.4 million each biennium**, prior freezes of the meals and rooms tax catch-up formula, and elimination of the 35 percent state contribution toward retirement costs for teachers, police and firefighters, which we estimate would have been approximately \$80 million in fiscal year 2014, or **\$160 million over a biennium**.

The three divisions have each been given specific amounts they are expected to cut from the Governor's budget, and they continue to meet with state agencies looking for ways to reach those targets. Some agencies offered less painful reductions, such as not funding vacant positions, while some larger agencies, like the Department of Safety, have been asked to take cuts of a magnitude that they indicate could result in elimination of hundreds of state troopers (committee discussion included having sheriffs "pick up the slack") and/or closure of motor vehicle substations across the state.

While the state seems to be in a perpetual state of crisis when it comes to balancing its budget, this year's situation appears to be more dire than in the past. We certainly sympathize with those legislators responsible for drafting a biennial state budget that fairly balances many competing needs. ***However, a reduction of \$42 million in state aid to municipalities is simply a downshifting of the state's fiscal woes onto property taxpayers across the state!***

Proposed Budget Cuts - continued

Clearly, the property tax has become a catch-basin to be used when the state doesn't want to raise sufficient revenues on its own or wants to continue unnecessary giveaways, such as the pollution control exemption that would have been repealed by **HB 224**—which, by the way, would have raised \$7 million in state revenue, the same amount needed to fund environmental grants.

The three divisions will continue their review next week and the Finance Committee will vote on its final budget proposal the following week. ***Your legislative delegation needs to hear how their budget decisions in Concord—in both the recent past and the near future—are affecting local budget decisions at home.***

Motor Vehicle Fee Increase ?

One revenue-raising measure proposed by the Governor is to increase motor vehicle registration fees to raise additional money dedicated to the highway fund, an unpopular measure with many legislators, but one that has long-standing support from NHMA. Our policy states:

NHMA SUPPORTS legislation to ensure adequate state revenue dedicated to highway improvements, which may include the road toll (gas tax) under RSA 260:32, increased motor vehicle registration fees, or any other source, so long as all additional revenues are used exclusively for highway purposes, and provided that the proportionate share of such additional revenues is distributed to cities and towns as required by existing law.

Surprisingly, this proposal may have found some legs this week in the House Finance Committee. A hearing is scheduled on **Monday, March 16 at 9:00 a.m. in LOB Room 210** on a non-germane amendment to **HB 357** that we thought would increase motor vehicle fees and tie those increases into the two-year budget for the Department of Transportation. When we read the amendment, however, no fee increase was mentioned. We understood that the intent of doing an amendment was to raise about half the amount proposed by the Governor.

As a side note, many are questioning now why the road toll (gas tax) wasn't increased more than four cents last year in order to address the projected and well known deficit in the highway fund. But as the saying goes, that's water over the [flood control] dams, under the [red-listed] bridges, and through the [aging water and wastewater] pipes.

House Passes Pole Valuation Bill

By a vote of 204-163, the House this week passed **HB 547**, the bill that preempts local assessors' duty to appraise property at market value and grants special treatment to telephone companies. (See [last week's Bulletin](#) for a description of the bill as amended.) The published vote tally was 205-162, but one representative told us later that she had accidentally pressed the wrong button, and had corrected it with the clerk.

Pole Valuation Bill - continued

In fact, 204 other representatives also pressed the wrong button; we're just not sure what motivated most of them. While there are some legislators who, as a matter of principle, always support the interests of big business over those of local governments and property taxpayers, we believe that is a relatively small group. It is unclear what caused the rest of the 204 to vote for a bill that will raise taxes for most property taxpayers to subsidize half a dozen companies. Included in that group were many who had opposed special treatment for the phone companies in the past.

Discussions with a number of representatives revealed that many of them were confused about the legislation (which is forgivable, given that the House was dealing with 246 bills in two days), and no doubt some were convinced the bill would be good for municipalities. It may be that they believed the claims that the bill would bring an end to the 480 lawsuits the phone companies have filed against municipalities. One supporter actually said the bill was necessary to "relieve municipalities of the burden of these lawsuits." Unfortunately, there is no requirement in the bill that the lawsuits be dropped, and because the value of the poles is only one of the issues the companies have raised, the suits will continue.

The good news is New Hampshire has a bicameral legislature, and the bill will go now to the Senate. It has not been assigned to a committee yet. We will let you know when it is.

In the meantime, we thank the many local officials who called or e-mailed their representatives, and the many representatives who paid attention to their constituents. Here is a [link to the roll call](#). Please thank your representatives who voted "nay." (Rep. Porter of Hillsborough is the representative who accidentally pressed the wrong button. She should be counted as a "nay" vote.)

House Tables Bill on Right-to-Know Costs

In a surprising and disappointing move, the House this week tabled **HB 646**, the **NHMA policy bill** that would allow public bodies and agencies to recover a small portion of the labor costs for responding to Right-to-Know Law requests. The exact reason for tabling the bill, after the House Judiciary Committee had voted overwhelmingly to recommend passing it, remains something of a mystery. On the House floor, the majority whip stated only that the bill is a "sensitive matter for people on all sides of the issue," and that the House needs "more time to examine the issues and the concerns of stakeholders."

According to a knowledgeable source within House leadership, the alternative to tabling the bill would have been to kill it, because not enough information had been provided in support of the bill. The source said the legislature needs to receive more specific information about how many Right-to-Know Law requests municipalities receive, how many are excessive, and how much time and money they spend responding to them.

Right-to-Know - continued

That information is not likely to be forthcoming anytime soon, and the bill is probably dead for this year. An encouraging sign is that the House chose to table the bill rather than vote it inexpedient to legislate. This was a deliberate choice: under House rules, an ITL vote would have prevented the House from considering a similar bill next year. If a bill dies on the table, that prohibition does not apply. Another encouraging sign is that, according to the same source, the House was not influenced by the rantings of the news media or of the half-dozen activists who purported to represent “the public” in opposition to the bill.

Assuming no further action is taken on the subject this year, we will work with House leaders to get the information they need to submit a bill next year. It is clear that most legislators understand the problem and are willing to address it.

Other RTK Bills Advance

The House passed several other bills this week dealing with the Right-to-Know Law. Each of them will go to the Senate for further review:

- **HB 285**, an **NHMA policy bill**, authorizes a public body to enter non-public session to consider correspondence from legal counsel. Needless to say, NHMA supports the bill and is pleased with the House’s action.
- **HB 108** provides that a vote to seal minutes of a non-public session must be taken in public session. Although NHMA does not have a formal position on the bill, the requirement is consistent with good practice, and it will resolve one of the questions we are asked most frequently.
- **HB 606** is intended to prohibit charging a fee to view records on line. We have no problem with that, but the amended version that was passed by the House is confusing, and we believe it will need some work in the Senate.

One other Right-to-Know Law bill, **SB 243**, will have its first hearing in the Senate this week. The bill corrects a longstanding oversight in RSA 91-A:3, II(e), which currently allows a public body to enter non-public session to discuss “claims or litigation which has been threatened in writing or filed *against* the public body.” Thus, if someone has sued a town, the selectmen may discuss the matter in non-public session, but if the *town* has sued someone, they may not. **SB 243** corrects that problem by stating that the public body may enter non-public session to discuss claims or litigation “threatened in writing or filed *by or* against the public body.”

No doubt someone is going to claim that this will lead to the end of civilization as we know it. Obviously, however, it is a simple and much-needed change. The hearing will be held before the Public and Municipal Affairs Committee and is scheduled for **Wednesday, March 18, at 10:00 a.m. in LOB Room 102.**

Water's Worth It!

The annual "Water's Worth It!" legislative breakfast is set for Wednesday, March 25, at the Holiday Inn on Main Street in Concord. Check-in for the event begins at 7:00 a.m.. The keynote speaker is Fritz Weatherbee! During the breakfast water quality professionals will present information on drinking water and wastewater treatment challenges in New Hampshire. Maintaining high quality water resources in New Hampshire is critical to our health and economy.

All legislators and staff are invited to enjoy a hearty breakfast and learn more about New Hampshire's water infrastructure. There is no cost for this event. RSVP to nhwpc.elizabeth@gmail.com by March 16 to reserve your seat at this important breakfast. The breakfast is sponsored by the NH Water Pollution Control Association in conjunction with a wide- ranging coalition of other local non-profit water organizations. There is no cost for enjoying breakfast with your peers at this event.

HOUSE CALENDAR

Joint House/Senate Meetings Are Listed Under This Section

MONDAY, MARCH 16

FINANCE – (DIVISION II), Rooms 210-211, LOB

9:00 a.m. Public hearing on non-germane amendment to **HB 357**, relative to notice of change of name or address on a driver's license and on the registration of a vehicle. This amendment makes appropriations for the department of transportation for the fiscal years ending June 30, 2015 and June 30, 2017. Copies of the amendment are available in the Sergeant at Arms office, Room 318, State House.

TUESDAY, MARCH 17

WAYS AND MEANS, Room 202, LOB

10:00 a.m. **HB 572-FN-L**, relative to taking land by eminent domain for high pressure gas pipelines and requiring payment of the land use change tax when land is taken by eminent domain to build energy infrastructure.

WEDNESDAY, MARCH 18

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

10:30 a.m. **SB 38**, establishing a commission to develop a land conservation plan.

FRIDAY, MARCH 20

ASSESSING STANDARDS BOARD (RSA 21-J:14-a), Room 301, LOB

9:30 a.m. Regular board meeting.

TUESDAY, MARCH 24

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

1:00 p.m. Presentation by DRA on Current Use.

SENATE CALENDAR

TUESDAY, MARCH 17

COMMERCE, Room 100, SH

2:20 p.m. **SB 100**, relative to home heating fuel deliveries in the winter.

WEDNESDAY, MARCH 18

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

9:00 a.m. **SB 179**, relative to eligibility to vote.

10:00 a.m. **SB 243**, relative to nonpublic sessions under the right-to-know law.

10:30 a.m. **SB 242-L**, relative to amending the budget in towns that have adopted official ballot voting.

11:00 a.m. **SB 235**, relative to the condominium act and the land sales full disclosure act.

HOUSE FLOOR ACTION

Wednesday, March 11, 2015

Thursday, March 12, 2015

HB 108-FN, relative to the content and sealing of minutes in nonpublic sessions under the right-to-know law. **Passed with Amendment.**

HB 109-FN-L, relative to the testing of backflow devices. **Passed with Amendment.**

HB 112, relative to domicile for voting purposes. **Tabled.**

HB 138-FN, relative to inspection of governmental records under the right-to-know law. **Inexpedient to Legislate.**

HB 139-FN, relative to an emergency exception under the New Hampshire retirement system for certain part-time employment. **Inexpedient to Legislate.**

HB 163, establishing a state minimum hourly rate. **Inexpedient to Legislate.**

HB 200, defining “farm stand.” **Passed with Amendment.**

HB 205-L, relative to lending practices of energy efficiency and clean energy districts. **Passed with Amendment.**

HB 214-FN, relative to circumstances under which a police officer’s certification may be revoked. **Inexpedient to Legislate.**

HB 244-L, relative to the permissible level of methyl tertiary butyl ether in drinking water. **Inexpedient to Legislate.**

HB 267-FN, requiring employers to verify an employee’s eligibility to work in the United States. **Inexpedient to Legislate.**

Floor Action- continued

HB 272, designating the Ham Branch watershed in Easton as a protected river and exempting the Ham Branch watershed from the comprehensive shoreland protection act. **Passed with Amendment.**

HB 278, relative to town clerk fees for fill and dredge permit applications. **Inexpedient to Legislate.**

HB 285, relative to discussion with legal counsel under the right-to-know law. **NHMA Policy. Passed with Amendment.**

HB 286, relative to permits issued by building inspectors. **Passed with Amendment.**

HB 287, allowing citizens to record by audio or video a traffic stop by law enforcement officers. **Passed with Amendment.**

HB 292, expanding the good Samaritan law to engineers and architects. **Passed with Amendment.**

HB 328, relative to delivery of absentee ballots. **Passed.**

HB 343, requiring certain charitable nonprofit corporations to provide certain information relative to board members. **Passed.**

HB 349, relative to state buffers for projects requiring wetland permits. **Tabled.**

HB 365, prohibiting an employer from using credit history in employment decisions. **Inexpedient to Legislate.**

HB 370-L, enabling counties and municipalities to establish minimum wage rates. **Inexpedient to Legislate.**

HB 374, permitting certain vehicles to proceed through an intersection after stopping for a red light. **Inexpedient to Legislate.**

HB 392-FN, relative to the minimum hourly wage. **Inexpedient to Legislate.**

HB 396-FN, relative to part-time employment by retirees in the New Hampshire retirement system. **Inexpedient to Legislate.**

HB 402-FN, establishing the Franklin Partin right-to-work act. **Inexpedient to Legislate.**

HB 427, relative to the definition of the New Hampshire fire code. **Passed with Amendment.**

HB 436, relative to the penalty for making a false statement in a criminal complaint. **Inexpedient to Legislate.**

Floor Action- continued

HB 460, establishing a commission to study revenue alternatives to the road toll for the funding the state's highways and bridges. **Passed with Amendment.**

HB 469, relative to highway surveillance. **Inexpedient to Legislate.**

HB 492-FN-L, relative to military and historic reenactments and commemorations. **Passed with Amendment.**

HB 496-FN-L, prohibiting public employers from using criminal history in employment decisions. **Tabled.**

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

HB 511, relative to funding of eligible infrastructure projects. **Passed with Amendment.**

HB 547, reestablishing the exemption from property taxation for telecommunications poles and conduits. **Passed with Amendment.**

HB 553-FN, relative to dealer registration privileges by a dealership management company and proof of ownership of a vehicle at the time of sale. **Passed with Amendment.**

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. **Inexpedient to Legislate.**

HB 574-FN, relative to regional greenhouse gas initiative distributions to residential customers. **Inexpedient to Legislate.**

HB 588-FN-A-L, extending the Coos county job creation tax credit to Carroll county. **Inexpedient to Legislate.**

HB 590-FN, relative to the accountability of public officials. **Inexpedient to Legislate.**

HB 600-FN, relative to paid sick leave for employees. **Inexpedient to Legislate.**

HB 606-FN-L, relative to costs for public records filed electronically. **Passed with Amendment.**

HB 613, relative to governmental records exempted under the right-to-know law. **Passed with Amendment.**

HB 633-FN, establishing a right-to-know grievance commission and relative to notice of meetings under the right-to-know law. **Inexpedient to Legislate.**

Floor Action- continued

HB 640-FN, relative to the crime of criminal coercion. **Inexpedient to Legislate.**

HB 646-FN-L, allowing public bodies or agencies to charge for the costs of retrieval of public records under the right-to-know law. **NHMA Policy. Tabled.**

HB 656-FN-L, relative to inspection of governmental records under the right-to-know law. **Inexpedient to Legislate.**

HB 658-FN, prohibiting collective bargaining agreements that require employees to join a labor union. **Passed.**

HB 660-FN, relative to small farms and farmstands. **Inexpedient to Legislate.**

HB 667-FN, relative to aquatic invasive species and authorizing a program to inspect boats for the presence of aquatic invasive species. **Inexpedient to Legislate.**

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. **Inexpedient to Legislate.**

HB 679-FN, establishing tax deferrals for expansion of natural gas distribution systems. **Inexpedient to Legislate.**

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. **Inexpedient to Legislate.**

HB 681-FN-A, increasing the marriage license fees. **Passed.**

HB 683-FN, regulating cash for gold businesses. **Inexpedient to Legislate.**

HB 684-FN, establishing a state minimum hourly rate. **Inexpedient to Legislate.**

HB 685-FN, prohibiting a state agency, state employee, or political subdivision from enforcing any federal law regarding a firearm, firearm accessory, or ammunition. **Inexpedient to Legislate.**

SENATE FLOOR ACTION

Thursday, March 12, 2015

SB 30-FN-L, (New Title) establishing a commission to study the feasibility and financing of a development district for the Balsams resort. **Passed with Amendment. Referred to F-S.**

SB 58, relative to the United States flag worn as a patch. **Tabled.**

SB 72, relative to confidentiality of police personnel files. **Tabled.**

Floor Action - continued

SB 77-L, authorizing the creation of a special purpose village district within the town of Danbury. **Passed with Amendment.**

SB 83, relative to the powers of conservation commissions. **Inexpedient to Legislate.**

SB 117-FN-L, relative to energy security and diversity. **Passed with Amendment.**

SB 121-FN-L, relative to definitions used for purposes of current use taxation. **Re-referred.**

SB 126-FN, prohibiting the placement of political signs in public rights-of-way. **Inexpedient to Legislate.**

SB 135-FN, relative to lead poisoning in children. **Passed with Amendment. Referred to F-S.**

SB 146, relative to accessory dwelling units. **Passed with Amendment.**

SB 191-FN, relative to use of the state's procurement card services. **Passed with Amendment. Referred to F-S.**

SB 198-FN-L, allowing all voters to vote by absentee ballot. **Re-referred.**

SB 205-FN, relative to the governor's office and the legislature under the election-eering law. **Tabled.**

SB 207-FN, eliminating the requirement that moderators photograph voters without identification. **Inexpedient to Legislate.**

SB 213-FN-A-L, (New Title) establishing a committee to study the formula for distribution of meals and rooms tax revenues. **Passed with Amendment. Referred to F-S.**

SB 219-FN, relative to breastfeeding. **Passed with Amendment.**

SB 260-FN, relative to the authority of the public utilities commission to regulate telecommunications service providers. **Re-referred.**

SB 261-FN, establishing a state minimum wage. **Inexpedient to Legislate.**

NHMA Webinar

NHMA Webinar - A Mid-Session Legislative Update

Event Date: Wednesday, April 8, 2015

Time: 12:00 PM - 1:00 PM

Contact: NHMA (603) 224-7447 Ext. 3408

Join Government Affairs Counsel Cordell Johnston and Government Finance Advisor Barbara Reid for a look at the status of legislation affecting municipalities after "Crossover." Crossover is the date (April 2 this year) by which a bill must pass either the House or the Senate in order to "cross over" to the other chamber for consideration.

This webinar will discuss the prospects for bills still alive at the State House, and offer a postmortem on a few that have been killed. The discussion will include, among others, the state budget, state aid grants for water and wastewater facilities, the Right-to-Know law, the retirement system, planning and zoning issues, assessing, and tax exemptions for telephone poles and pollution control facilities.

This webinar is open to members of the New Hampshire Municipal Association.

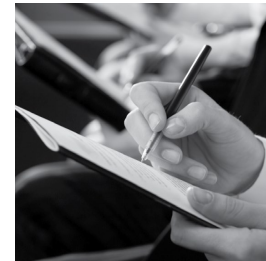
[Click here to register before April 7](#)

2015 Local Officials Workshops

Presented by NHMA's Legal Services attorneys, the 2015 *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 2015 edition of *Knowing the Territory*. Continental breakfast and lunch will also be provided.

Wednesday, April 22:	Durham Public Library, Durham
Saturday, April 25:	Antioch University New England, Keene
Friday, May 15:	Conway Professional Development Center, Conway
Saturday, May 16:	Bethlehem Town Hall, Bethlehem
Saturday, May 30:	NHMA Offices, 25 Triangle Park Drive, Concord



Each workshop runs from 9:00 am – 3:00 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.