

LEGISLATIVE BULLETIN

Bulletin #12

2015 Session

March 20, 2015

INSIDE THIS ISSUE:

Utility Valuation	2
State Budget	3
Moderators as Photographers	5
Accessory Dwelling Units	5
House Calendar	6
Senate Calendar, Floor Action	7
NHMA Webinar, Local Officials Workshops	8

Will the Legislature Pass a Road Toll Increase? *(or will ‘you can’t get there from here’ really come true in NH?)*

Please call your legislators ASAP! Why? Read on.

House Finance Committee Division II, which deals with the Departments of Transportation, Safety, and Education, among others, not only had a goal of reducing general funds by \$34 million over the biennium, it also had to address a **\$109.9 million deficit** in the highway fund, due in large part to the rejection of the Governor’s proposal to raise motor vehicle registration fees. How did they do it?

The largest reduction came from the Department of Transportation (DOT), which saw a whopping **\$88.2 million** cut. These cuts appear in an amendment to **HB 357**—but more on that later.

What does \$88.2 million look like? It includes:

- cutting all overtime except for winter maintenance,
- cutting \$9.4 million for the mechanical services bureau, which maintains all DOT vehicles and equipment—over 1100 units, many of which are well beyond their established replacement age, and cutting equipment,
- reducing bridge maintenance by 50%,
- cutting all part-time personnel except winter maintenance,
- laying off 409 active employees, plus 221 more to cover the costs of payouts to those laid off, for a total loss of 630 employees, and the elimination of 83 currently vacant positions. Total positions eliminated = 713, out of 1,408 highway fund positions currently authorized for DOT.

What does this mean for municipalities? Information submitted this week by DOT indicates:

- DOT will no longer be able to maintain and plow 2,500 miles of roads and 1,000 bridges, which will be left to municipalities,

NHMA Government Affairs Contact Information

Judy A. Silva
Executive Director

Cordell A. Johnston
Government Affairs Counsel

Barbara T. Reid
Government Finance Advisor

Timothy W. Fortier
Communications & Member
Services Coordinator



25 Triangle Park Drive
Concord, NH 03301
Tel: 603.224.7447/Fax: 603.415.3090
NH Toll Free: 800.852.3358

Email: governmentaffairs@nhmunicipal.org
Website: www.nhmunicipal.org

Road Toll Increase - continued

- overtime in the non-winter months is eliminated, meaning that evening and weekend roadway issues, such as downed trees, flooding, and sinkholes (6,387 incidents April-November 2014) will have to wait for attention until business hours or Monday morning,
- there will no longer be traffic control for major events (NASCAR, Highland Games, Hampton Food Festival).

What can be done? As mentioned above, the DOT budget and these cuts have all been put in an amendment to **HB 357**, which will go to the floor of the House on **Wednesday, March 25th**. As has been stated by some Finance Committee members, the cuts made are drastic and not in the state's best interest, but without additional revenue, this is a proposal for DOT that lives within the state's means. In the House Calendar for next week, there is an amendment to **HB 357** that raises the road toll (gas tax) by eight cents/gallon to 26 cents. At first reading, this looks like it is expected to raise \$68 million per year, some of which is specifically designated in the amendment to go to the mechanical services bureau to maintain and purchase equipment. Some will increase the municipal highway block grant in fiscal year 2017. Any increase goes to the highway fund, so it must be spent on highway fund expenses.

NHMA member-adopted policy supports increasing the road toll, provided the additional funds are used exclusively for highway purposes and provided the proportionate share of the additional revenues is distributed to cities and towns in accordance with the existing law.

Please call your legislators ASAP and urge them to support any effort to increase the road toll that meets this two-pronged standard. Again, the full House meets on **Wednesday, March 25th** to vote on **HB 357**, and there will likely be a variety of amendments offered. It is impossible to say right now what they all will provide, but if the two-pronged standard is met, the devastating cuts to DOT will be avoided and much-needed municipal highway funding will increase as well.

Please call the Government Affairs staff if you have any questions. For a detailed overview of DOT finances, please see the [Citizen's Guide to DOT](#).

Hearing on Utility Valuation Bill

HB 192, the **NHMA policy bill** on valuation of utility property, is scheduled for a hearing next **Tuesday, March 24, at 9:15 a.m., in State House Room 103**, before the Senate Ways and Means Committee. Here is a refresher on the issue:

Utility property is subject to local property taxes, and also to a uniform statewide utility property tax under RSA 83-F (the latter in lieu of the statewide education property tax that all other taxpayers pay). For purposes of the utility property tax,

Utility Valuation - continued

the Department of Revenue Administration determines the value of the utility property. Some municipalities rely on the DRA value for their own local property tax purposes, but most do their own appraisals.

In the last few years, the electric utilities have filed many appeals of their local property tax assessments with the Board of Tax and Land Appeals. In those appeals, they have introduced the DRA values (which are usually lower than the values determined locally, because DRA uses a different valuation method), and the BTLA has begun to allow those values as evidence.

In recent Board of Tax and Land Appeals cases, utility companies have essentially been able to use the state's utility appraiser as their own expert witness. We thus have an anomalous situation in which the state is lending its expert witness to the utilities—at taxpayer expense and no cost to the utilities—to testify against the state's own political subdivisions.

HB 192 will prohibit utilities from relying on DRA's extremely low appraisal numbers when they appeal their local property tax bills. DRA's appraisals are, by statute, designed to be used solely for purposes of the utility property tax under RSA 83-F. They were never intended to be used for local property tax assessment, and because they value a business on a statewide basis, they do not accurately reflect the value of properties within individual municipalities. **HB 192** would not prevent a utility from offering its own expert testimony in an appeal. It would merely prohibit the utility from relying on the *state's* expert. Thus, like any other taxpayer, the utility would need to find its own expert to do battle with the municipality's assessor. It is a matter of simple fairness.

The bill made it through the House with surprising ease, but we know it will face stiff opposition from utility companies in the Senate. ***If you are able to make it to the hearing, please do so. Otherwise, please contact your senator and members of the [Ways and Means Committee](#) and ask them to support HB 192.***

State Budget – General Fund Reductions

It feels like June! Not with the weather, but with the three divisions of the House Finance Committee. The kinds of cuts and spreadsheets and amendments flying around the legislative office building this week were more typical of the committee of conference season in June, rather than March. Instructions to the divisions (the House Finance subcommittees responsible for different sections of the state budget) were to reduce the Governor's proposed budget by approximately \$240 million in general funds in order to stay within the House Ways and Means Committee's revenue projections for the next two years. Since those projections did not include the Governor's revenue proposals (tax and fee increases or new revenue from kenno) the only alternative to reaching a balanced budget was to reduce spending. And that they did, with each division given a target reduction amount. It has been a grim picture as some programs were whittled and trimmed, while others were slashed or eliminated.

State Budget - continued

There are numerous provisions that directly or indirectly affect municipalities:

- Freezing the meals and rooms tax distributions at the 2015 level (*i.e.*, suspending the statutory catch-up provision), a potential loss of \$15 million over the biennium.
- Continuing 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.
- Requiring the state to only pay the New Hampshire share of the flood control payments in lieu of taxes (PILOT). The full amount of the PILOT would be made only if payments are received from the other states involved in the flood control compacts (which is unlikely to occur), a potential loss of \$1.1 million. However, another amendment appropriates \$165,285 from the recent settlement with Massachusetts to partially reimburse municipalities for the amount of the PILOT owed to them from fiscal year 2013.
- Eliminating 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.
- Suspending revenue sharing for the biennium, a loss of \$50.4 million (although no one ever expected revenue sharing to be restored in this budget).
- Closing three Division of Motor Vehicle substations (Gorham, Epping and possibly Milford), which would likely increase registration activity in surrounding towns.
- Reducing staff at the Department of Safety forensic lab, which may delay test results in criminal cases.
- Postponing from September 1, 2015 until July 1, 2017 the voter photo requirement enacted in 2012, since funding for the necessary cameras is not included in the Secretary of State's budget.
- We have yet to determine the impact that reductions at the Department of Health and Human Services may have on municipalities.

On **Monday, March 23, at 10:00 a.m., in LOB Room 210**, the House Finance Committee will be briefed on the budget provisions proposed by each of the three divisions, with the expectation that votes on the budget will take place on **Tuesday, March 24, at 10:30 a.m., in LOB Room 210**. The Finance Committee's recommended budget will then go to the full House for a vote the following week.

Will Moderators Have to Double as Photographers?

The question of whether moderators will have to begin taking photographs of voters at elections after September 1 is kicking around in the legislature, and has not been resolved yet. The answer may come in the budget bill, which of course will not be decided until June.

Some background: In 2012 the legislature enacted a voter identification law. Under that law, if a voter does not present a photo ID at the polls, he or she may still vote by completing a qualified voter affidavit. The new law included a provision requiring the moderator to take a photograph of any voter who signs a qualified voter affidavit and attach it to the affidavit. That provision, however, had a delayed effective date of September 1, 2013, and in 2013 the effective date was delayed again until September 1, 2015.

This year, **SB 207** would have eliminated this requirement altogether, and NHMA supported that effort. Unfortunately, the Senate killed that bill, so as of right now, the requirement is scheduled to take effect this September.

However, there is still hope. As mentioned in the budget article above, the House Finance Committee is poised to include a provision in **HB 2** that would suspend the requirement until September 1, 2017. This is a budget-related action, because if and when the requirement does take effect, it requires the Secretary of State to provide each municipality with the necessary photography equipment.

We would prefer to see the requirement repealed instead of suspended, because it is difficult to see how taking a picture of a voter is going to make a dent in voter fraud. It certainly is not worth the hassle to equip every polling place with cameras and give moderators one more job to do on election day. We are optimistic that the suspension will remain in **HB 2** through the end of the process.

Accessory Dwelling Units

The Senate last week passed a bill that would affect how municipalities regulate the creation of accessory dwelling units (ADUs) (often referred to as “in-law apartments”). The bill has been referred to the House Municipal and County Government Committee, although a hearing has not been scheduled yet.

The bill is an effort to expand housing opportunities for elderly parents and for young adults, and it limits a municipality’s ability to restrict the creation of ADUs. NHMA initially opposed the bill because of its restriction on local control, but quickly concluded that the bill was likely to pass regardless of our opposition. Our options, then, were (a) to oppose the bill and lose without anything to show for it; or (b) to work with the bill’s supporters to make it more palatable. We chose the latter.

The bill that went to the Senate floor last week had several improvements, most notably a provision allowing the municipality to require a special exception for an

Accessory Dwelling Units - continued

ADU, and another stating that every ADU will be considered a unit of workforce housing for purposes of satisfying the municipality's statutory obligation. In exchange for these concessions, NHMA agreed not to oppose the bill.

One unfortunate change, however, came in the form of a floor amendment. The bill recommended by the committee would have allowed municipalities to limit ADUs to a maximum size of "800 square feet of living space or 40 percent of the living space of the principal dwelling unit, whichever is smaller." The floor amendment eliminated the reference to 800 square feet, meaning that the municipality could only limit an ADU to 40 percent of the size of the principal unit. For a 3,000-square-foot house, that would mean allowing a 1,200-square-foot ADU.

If we are able to get the 800-square-foot alternative restored, we will not oppose the bill in the House. However, individual municipalities should feel free to express their views, positive or negative, to their own representatives or to members of the [Municipal and County Government Committee](#).

HOUSE CALENDAR

Joint House/Senate Meetings Are Listed Under This Section

TUESDAY, MARCH 24

CRIMINAL JUSTICE AND PUBLIC SAFETY, Rooms 206-208, LOB

10:00 a.m. **SB 116-FN**, repealing the license requirement for carrying a concealed pistol or revolver.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

10:00 a.m. **SB 20-FN-L**, (New Title) establishing a commission on historic burial grounds and cemeteries.

10:30 a.m. **SB 54**, relative to property tax payments by therapeutic cannabis alternative treatment centers.

11:00 a.m. **SB 97**, authorizing municipalities to adopt ordinances to regulate storm-water to comply with federal permit requirements.

11:20 a.m. **SB 98**, relative to third party review required by the planning board.

11:40 a.m. **SB 143**, relative to defining phased development.

FRIDAY, MARCH 27

COASTAL RISK AND HAZARDS COMMISSION (RSA 483-E:1), Department of Environmental Services, Pease

9:00 a.m. Regular meeting.

FRIDAY, APRIL 3

COASTAL RISK AND HAZARDS COMMISSION (RSA 483-E:1), Department of Environmental Services, Pease

11:00 a.m. Steering Committee.

SENATE CALENDAR

TUESDAY, MARCH 24

EDUCATION, Room 103, LOB

10:00 a.m. **HB 662-FN-L**, relative to property taxes paid by chartered public schools leasing property.

WAYS AND MEANS, Room 103, SH

9:15 a.m. **HB 192**, relative to the valuation of utility property. **NHMA Policy.**
 9:30 a.m. **HB 193**, relative to utility assessments for the use of village district roads.
 9:45 a.m. **HB 344**, relative to membership on advisory boards for municipal economic development and revitalization districts and relative to the financing plan of such districts.

WEDNESDAY, MARCH 25

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

9:00 a.m. **HB 102**, relative to consideration of warrant articles.
 9:30 a.m. **HB 133**, relative to recounts on questions.
 9:45 a.m. **HB 140**, relative to appointment of inspectors of election.
 10:15 a.m. **HB 135**, relative to qualifications of assistant election officials.

HOUSE FLOOR ACTION

There is no floor action to report this week.

SENATE FLOOR ACTION

Thursday, March 19, 2015

CACR 5, relating to legal actions. Providing that taxpayers have standing to bring actions against the government. **Passed with Amendment.**

SB 85, establishing a statutory commission to study post-retirement employment of New Hampshire retirement system retirees. **Inexpedient to Legislate.**

SB 105, (New Title) relative to child-resistant packaging for tobacco products and establishing a committee to study revising the indoor smoking act. **Passed with Amendment.**

SB 164, relative to the independent investment committee in the New Hampshire retirement system. **Inexpedient to Legislate.**

SB 186, reestablishing the commission to study soft tissue injuries under workers' compensation and to study the feasibility of developing a first responder's critical injury fund. **Passed with Amendment.**

SB 241, relative to authorization for the town of Rindge to make capital expenditures from a trust fund. **Passed with Amendment.**

Senate Floor Action - continued

SB 249, relative to the Hampton and Exeter district divisions of the circuit court. **Passed.**

SB 254, establishing a committee to study the provision of services to the public through peer-to-peer or sharing economy businesses. **Passed with Amendment.**

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.

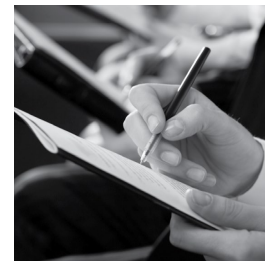
[Click here to register before April 7](#)

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.