

LEGISLATIVE BULLETIN

Bulletin #13

2015 Session

March 27, 2015

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The state budget process is complex. The various shrinking sources of state aid are tucked in here and there, but we know where they are. In the House Finance Committee proposed budget, state aid to municipalities is a mixed bag, with some sources flat-funded at the same levels as fiscal year 2015, and other areas reduced. While in many ways flat funding in the current environment is a positive, **by current law**, municipalities were supposed to receive an increase in two major sources: the meals and rooms tax distribution and highway and bridge aid.

So is flat funding a downshift? Is flat funding a cut? A broken promise? Do municipal officials have unrealistic expectations, as some legislators say, when they expect to receive the state aid funds in accordance with current law?

In bottom line dollars, here is what's in the House Finance Committee proposed budget for the biennium, and what's not there. Finance Committee members would want you to know that some of these cuts were in the Governor's proposed budget, and were not made by the Finance Committee, although we are not sure it matters where the cuts originated:

- Over the coming two years, under the proposed House budget, municipalities will not see the additional **\$15 million** in **meals and rooms tax revenue** called for by the "catch-up" statute that was enacted in 1993 to raise the municipal share of that revenue to 40%, as was promised back in 1967 when the tax was enacted. That catch-up formula remained in place from 1993 to 2009, raising the municipal percentage to 29% before it was suspended. Some legislators say towns and cities haven't been cut here, because that line will be flat-funded at the 2015 distribution level, and that we should not have expected the increase.
- Over the next two years, municipalities with completed waste water treatment projects will not see over **\$7 million** in **state aid grant monies** they are owed under state statute. These projects were approved locally with the expectation of state funds to assist with repayment prior to the freeze on the state money that was implemented in December 2008. After several years of effort, grant monies for

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Budget Cuts - continued

some projects were explicitly funded in 2015, then pulled back to help address the state's 2015 deficit. They were promised for 2016 and included in the Governor's budget proposal, and now they've been eliminated again. Downshifting, you say?

- Municipalities also will not see the expected **\$8 million** in additional funding in **highway block grants** or the **\$13.6 million** in additional funding for **bridge aid** explicitly targeted from the road toll increase enacted by **SB 367** in 2014. (See article below.) So despite working hard to pass the road toll increase, municipalities will be flat-funded in these areas in the coming biennium. Unreasonable expectations for an increase?
- The long-overdue payment of **\$4.3 million** for the state's share of **disaster relief** has also been cut from the budget. For eight declared disasters occurring in 2010 through 2013, municipalities paid the full 25% match for FEMA disaster funds. This match has historically been shared equally with the state, but the state never reimbursed those municipalities for its 12.5% share. That led to the passage last year of **SB 409**, which explicitly appropriated the \$4.3 million for the state match to be paid in 2016. Those funds have been cut from the budget, however, with some saying it is an "old" obligation, and if the municipalities have made it this far without the money, they don't need it. An unrealistic expectation? A downshift?
- **Flood control** funding has also been cut approximately **\$1.2 million** in the proposed budget. This represents payments to those municipalities that lost land to the flood control compacts still necessary to mitigate downstream flooding of both the Merrimack and Connecticut Rivers. While the funds reimburse municipalities for only a tiny fraction of the value the land would have today, some say the difficulty in getting other states to pay their share should not be the state's problem, so only the state share has been appropriated.
- Click [here](#) to see the New Hampshire School Boards Association's Bulletin for information about education funding in the proposed budget.

NHMA has been urged over time by various government officials to have its members take a position on revenues. NHMA has gathered local officials together in regular and special policy meetings to address revenues, but as one can imagine, with 234 separate municipal governments, it is not easy to reach agreement. One revenue source that did garner sufficient support to become policy was the increase in the road toll, and yet before a cent of that money has been distributed, the money is "reallocated." Other NHMA legislation that would result in increased revenue to the state as well as municipalities—**HB 224**, which would end the so-called pollution control subsidy to big business—was again defeated in the House. So what is the incentive for municipalities to join together behind any revenue source?

Budget Cuts - continued

Please make sure your representatives are aware of the effects of this proposed budget on municipalities. Whether called downshifting, cuts, or unmet expectations, what is clear is that the legislature's refusal to raise revenue, or its effort to live within its means, is being done in part at a cost to municipal government—and to local property taxpayers. Make sure your representative knows what he or she is voting for when they vote on the budget on April 1st.

Road Toll (Gas Tax) Funding—Gone Before It Arrives

On Thursday, in order to present a balanced budget that does not rely on any new revenue sources or tax or fee increases, the House Finance Committee voted to “reallocate” the road toll revenues attributable to the 4 cent increase enacted last year in **SB 367**. This reallocation *eliminates* \$4 million each year in highway block grant funding to municipalities, and instead directs that money for operational activities at the Department of Transportation. As you may recall, NHMA members strongly supported and advocated for what became the first road toll increase in over 20 years, conditioned upon the additional revenue's being used exclusively for highway purpose and “*that the proportionate share of such additional revenues is distributed to cities and towns as required by existing law*” (NHMA POLICY). Existing law (RSA 235:23) requires that 12 percent of road toll revenue and motor vehicle fees collected by the state the previous year goes to cities and towns, distributed under a formula based on the number of miles of class IV and class V roads in each municipality, and on population estimates.

In accordance with RSA 235:23, **SB 367** was to provide \$4 million each year in additional highway block grant funding beginning July 1, 2015. (Click [here](#) to see a table showing the estimated block grant increase for each municipality). The bill also provided \$6.8 million each year in additional bridge aid to municipalities to help reduce the 8-10 year wait for such state aid. As we reported in [Bulletin #11](#), the additional \$6.8 million for municipal bridge aid was already eliminated in the Governor's budget, and now the additional \$4 million in highway block grant funding is eliminated in the House Finance Committee budget. So here's the bottom line for municipalities ...as George Costanza was told in the famous “Seinfeld” episode... “No soup for you!”

Committee to Vote on Utility Valuation Bill

The Senate Ways and Means Committee heard testimony this week on **HB 192**, the **NHMA policy bill** that prohibits the use of Department of Revenue Administration values in appeals of local utility property tax assessments. The committee is likely to vote on the bill this coming **Tuesday morning, March 31**. *Please contact members of [the committee](#) before then and urge them to support the bill.*

Many local officials and others appeared at the hearing to speak in support of the bill. However, almost an equal number of utility lobbyists spoke in opposition. The primary argument against the bill was that the courts and the Board of Tax and

Utility Valuation Bill - continued

Land Appeals should be able to consider all relevant evidence, without interference from the legislature.

The answers to that argument are easy. First, there are many examples of the legislature's determining what evidence is or is not admissible (breathalyzer results, early offers in medical malpractice cases, *nolo contendere* pleas in subsequent civil cases).

Second, DRA valuations of utility property clearly are not relevant in local property tax appeals, so the court or the BTLA is not missing anything by not hearing the evidence. On the contrary, **HB 192** would help to keep misleading information out of the tribunal. As was explained at the hearing, DRA does not appraise property in a specific municipality when it determines utility values under RSA 83-F. This is because the utility property tax under RSA 83-F is a state-level tax, and it does not matter to the state or DRA what property a company has in what municipality.

DRA values the business as a whole, using the net book value as supplied by the company. It then allocates that value among the municipalities based on the company's allocated business—without actually considering what property the utility has in what municipality. It does not matter to DRA if a company has a substation or a hydro facility in a particular town, and that information is not reflected in its valuation. Because property must be appraised for local property tax purposes based on the market value of the specific property in the municipality, the DRA valuation is not only irrelevant but misleading.

If Wal Mart or Home Depot were to appeal its tax assessment in a particular town (assuming it owns its stores, rather than leasing them), would the superior court/BTLA consider the net book value of the company's New Hampshire business as a whole, allocated among all the municipalities where it does business? Of course not. It would only consider an appraisal of the market value of the specific property in the specific municipality. The question here is no different.

Further, if the DRA valuation is to be used in court or in the BTLA, due process requires that the municipality be able to depose and cross-examine the appraiser. DRA employs one person to value over 100 utility companies in 234 cities and towns. If he is going to have to be a witness every time a utility company appeals its assessment, the state will essentially be paying an employee to spend all of his time in court, testifying on matters that have nothing to do with the work he was hired to do, for the benefit of private businesses and in opposition to the state's political subdivisions. If that is not a misuse of state resources, we don't know what is.

Again, please contact members of the Ways and Means Committee and your own senator and urge them to support HB 192.

Hearing on Pole Valuation Bill Scheduled for Tuesday

The Senate hearing on **HB 547**, dealing with valuation of telephone poles for property tax purposes, has been scheduled for this coming **Tuesday, March 31, at 9:10 a.m., in State House Room 103**, before the Ways and Means Committee. Please consider attending or sending your local assessor to *oppose this bill*.

The current version of this bill was discussed at length in [Bulletin #10](#), and that discussion will not be repeated here. However, we will repeat the basic point that legislators are not assessors, and it is not within their expertise to establish a valuation formula for telephone poles or any other class of property.

If there is a reason to assess telephone poles differently from other property—and no reason for doing so has been demonstrated—it would make sense to refer the issue to the Assessing Standards Board, which *does* have the expertise and has been specifically charged, under RSA 21-J:14-b, with recommending legislation and guidelines to be followed in assessing property. Neither the ASB nor the Department of Revenue Administration was consulted on **HB 547**. The current version of the bill was drafted by a few legislators in consultation with lobbyists for the telecommunications industry, and was pushed through the committee, and the House, with no public hearing and almost no discussion in committee. This is no way to establish an appraisal formula for billions of dollars in property.

Again, **HB 547** will not even achieve the stated goal of its supporters, which is to “relieve municipalities of the burden” of the many lawsuits the telephone companies have filed over their tax bills. Not one lawsuit will be dismissed if **HB 547** becomes law; to the contrary, it will almost certainly lead to hundreds more lawsuits by electric and gas companies demanding that their utility properties be assessed in a similar manner.

*Please contact your senator and members of the [Ways and Means Committee](#) and urge them to **oppose HB 547**.*

Casino Bill Promises Revenue Sharing (or “Fool me once . . .”)

SB 113, the perennial bill to bring casino gambling to New Hampshire, passed the Senate two weeks ago on a 13-11 vote and is scheduled for a hearing in the House Ways and Means Committee on **Tuesday, April 7, at 9:00 a.m., in LOB Room 202**. NHMA has no position on the bill. On several occasions NHMA’s members have declined to take a position on the issue of expanded gambling. Despite the possibility of additional state and local revenue, our members have not achieved a consensus on whether the positives outweigh the negatives.

This year’s bill comes with a sweetener (as a similar bill last year did). It promises to distribute a portion of the slot machine revenue to cities and towns under the revenue sharing formula in RSA 31-A:4. For those who don’t remember revenue sharing, that is the program, created in 1970 when the legislature took away several other sources of municipal revenue, under which the state promised to return a portion of its general revenue to cities and towns. Until 2009, when the program was

Revenue Sharing - continued

suspended, revenue sharing under RSA 31-A provided about \$25 million annually to municipalities.

Given the prospect of getting \$25 million a year, a few people have asked whether we will support **SB 113**.

Ha! It seems [we've been here before](#).

To be fair, we have no doubt that the sponsors of **SB 113** fully intend to see \$25 million annually distributed to cities and towns. Similarly, we're sure the legislature was sincere in its original promise in 1970. No doubt it was also sincere when it promised to pay 35 percent of the cost of police and firefighter pensions, in exchange for requiring municipalities to participate in the retirement system; and when it promised to distribute 40 percent of meals and rooms tax revenue to cities and towns; and when it promised grants for mandated water infrastructure; and when it promised compensation for land taken for flood control. Perhaps it was even sincere last year when it promised increased bridge aid and block grants from the road toll increase.

In some cases it took several decades for the state to welch on its obligation. But lately, as discussed in the first two articles above, legislative promises seem to be written in fast-disappearing ink. So forgive us if we look this gift horse in the mouth.

If individual municipalities want to weigh in on **SB 113**, we encourage them to do so. And maybe, just maybe, cities and towns will get some revenue sharing—for a year or two. We are not getting our hopes up.

HOUSE CALENDAR

Joint House/Senate Meetings Are Listed Under This Section

TUESDAY, MARCH 31

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. **SB 106-FN**, restricting the sale or possession of synthetic drugs. **NHMA Policy.**

FRIDAY, APRIL 3

COASTAL RISK AND HAZARDS COMMISSION (RSA 483-E:1),

Department of Environmental Services, Pease

11:00 a.m. Steering Committee.

House Calendar - continued**TUESDAY, APRIL 7****TRANSPORTATION, Room 203, LOB**

- 10:20 a.m. **SB 230-FN-L**, relative to speed limits on state roads that are seasonally congested by pedestrian and bicycle traffic.
- 11:20 a.m. **SB 231**, relative to the month of inspection for municipal fleets.

WAYS AND MEANS, Rooms 202-204, LOB

- 9:00 a.m. **SB 113-FN-A-L**, relative to video lottery and table gaming.

SENATE CALENDAR**TUESDAY, MARCH 31****EDUCATION, Room 103, LOB**

- 9:00 a.m. **HB 662-FN-L**, relative to property taxes paid by chartered public schools leasing property.

FINANCE, Room 103, SH

- 1:40 p.m. **HB 607**, relative to fees for carrying a concealed firearm.
- 2:00 p.m. **HB 658-FN**, prohibiting collective bargaining agreements that require employees to join a labor union.

TRANSPORTATION, Room 103, LOB

- 1:00 p.m. **HB 134**, establishing a committee to study the use of motorized scooter chairs on roadways and sidewalks.
- 1:15 p.m. **HB 460**, establishing a commission to study revenue alternatives to the road toll for electric-powered and hybrid vehicles for the funding of improvements to the state's highways and bridges.
- 1:30 p.m. **HB 260**, relative to the definition of antique motor vehicle or motorcycle.

WAYS AND MEANS, Room 103, SH

- 9:10 a.m. **HB 547**, relative to the valuation of poles and conduits owned by telephone utilities.

WEDNESDAY, APRIL 1**ENERGY AND NATURAL RESOURCES, Room 100, SH**

- 9:30 a.m. **HB 306**, relative to membership of the wetlands council and the water council.
- 10:00 a.m. **HB 511**, establishing a committee to study the funding of certain state aid grants.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 101, LOB

- 9:30 a.m. **HB 606-FN-L**, relative to costs for public records filed electronically.

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

- 9:00 a.m. **HB 107**, relative to the retention of municipal trust fund bank statements.
- 9:15 a.m. **HB 155**, relative to municipal contracts for police chief.
- 9:30 a.m. **HB 166-L**, relative to records storage by municipalities.
- 9:45 a.m. **HB 275**, relative to the encroachment of a town cemetery on state-owned land.
- 10:00 a.m. **HB 689**, relative to adoption of a default budget.

Senate Calendar - continued**THURSDAY, APRIL 2****EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 101, LOB**

1:15 p.m. **HB 510**, establishing a commission to study the regulation of pawnbrokers, secondhand dealers, and junk or scrap metal dealers.

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

1:15 p.m. **HB 328**, relative to delivery of absentee ballots.

1:30 p.m. **HB 331**, relative to absences among selectmen on election day.

1:45 p.m. **HB 493**, relative to minimum voting booths for city or town elections.

2:00 p.m. **HB 502**, relative to petitions for verification of checklists.

HOUSE FLOOR ACTION

Wednesday, March 25, 2015

HB 468-FN, requiring a warrant to obtain electronic device location information. **Passed.**

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. **Passed.**

SENATE FLOOR ACTION

Thursday, March 26, 2015

SB 4, relative to domicile for voting purposes. **Re-referred.**

SB 30-FN-L, (Second New Title) permitting counties with unincorporated areas to establish tax increment financing districts. **NHMA Policy. Passed with Amendment.**

SB 100, relative to home heating fuel deliveries in the winter. **Re-referred.**

SB 135-FN, relative to lead poisoning in children. **Passed.**

SB 179, relative to eligibility to vote. **Passed with Amendment.**

SB 191-FN, relative to use of the state's procurement card services. **Passed.**

SB 213-FN-A-L, establishing a committee to study the formula for distribution of meals and rooms tax revenues. **Passed with Amendment.**

SB 227, relative to calculating the cost of an adequate education. **Passed with Amendment.**

SB 234, relative to police details on public ways. **Passed with Amendment.**

SB 235, relative to the condominium act and the land sales full disclosure act. **Passed with Amendment.**

Senate Floor Action - continued

SB 242-L, relative to amending the budget in towns that have adopted official ballot voting. **Passed.**

SB 243, relative to nonpublic sessions under the right-to-know law. **Passed.**

SB 253, relative to the enactment of ordinances by municipalities permitting an assessment on hotel occupancy for the use of municipal services. **Tabled.**

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, 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.

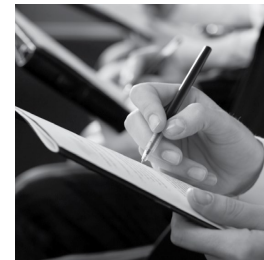
[Click here to register before April 7](#)

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.