

LEGISLATIVE BULLETIN

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Phony Numbers on Pole Valuation

“Trust, but verify.”
— Ronald Reagan

The Senate Ways & Means Committee heard testimony this week on **HB 547**, the bill that would write into statute an appraisal formula for telephone poles and conduits. As you will recall, this is the bill that originally called for a reinstatement of the tax exemption for telephone poles and conduits. House members rewrote the bill in consultation with FairPoint representatives to create a statutory appraisal formula.

At this week’s hearing, assessors and other officials from at least seven municipalities spoke against the bill, as did one taxpayer from Concord, who summarized the bill succinctly: “This is a giveaway.”

Two representatives from the Assessing Standards Board also spoke, telling the committee that the board had voted unanimously to oppose the bill. As they explained, one of the ASB’s responsibilities is to recommend guidelines for assessing property. They urged the committee to refer the matter to the ASB if it believes the issue of pole valuation needs to be studied. A representative of the Department of Revenue Administration, while officially taking no position on the bill, also suggested referring the matter to the ASB.

Speaking in support of the bill were its House sponsors and representatives from two telephone companies. They continued to say the bill is necessary to end the approximately 480 lawsuits the phone companies have filed against municipalities. Privately, however, FairPoint has acknowledged that it will not drop any of the lawsuits if the bill passes, because the lawsuits are not primarily about pole valuations. The phone company representatives objected to letting the ASB study the issue. After all, the proposed formula has been thoroughly vetted—by FairPoint! Why let someone who understands assessing weigh in on it?

They also claimed the bill is a response to wild variations in appraised pole values around the state. As examples, they cited average per-pole valuations from a number of towns, ranging from \$93.70 to \$6,865. The highest number cited, \$6,865, was for Groton, and the second highest,

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Pole Valuation - continued

\$2,400, was for Lempster. Before the hearing, we also heard a claim that Derry had assessed its poles at an average of \$5,365. FairPoint's New Hampshire president said at the hearing, "This is part of the problem. Numbers are just being made up."

Some of those numbers had been mentioned before, but curiously, FairPoint had never provided any information to back them up. The numbers sounded fishy, so after the hearing, we decided to do something we should have done a long time ago: verify.

Groton's assessor provided us with the assessing card for FairPoint's properties in that town. It shows a total pole value of \$44,253 for 71 poles. That's a per-pole value of \$623—not \$6,865. The same assessor represents Lempster and provided the card for FairPoint's properties in that town. It shows a total pole value of \$253,162 for 355 poles—a per-pole value of \$713, not \$2,400. The company that does the assessing for those towns (and many others) begins with a pole value of \$900 and factors in depreciation—so *no pole in those towns has ever been appraised at over \$900*, let alone at an average of \$6,865. We also checked with Derry. The poles there were appraised at \$962 per pole—not \$5,365.

So FairPoint's president is correct—numbers *are* just being made up. But it's not the towns, or their assessors, that are making them up. We don't know where FairPoint got its insanely inaccurate numbers. We assume they indicate mistake, not deceit; but a huge mistake it is, and it thoroughly undermines the premise for the legislation. (We suspect the company may have aggregated its entire property valuation in each town, which includes a value for conduits and for the use of the public right of way, and divided that figure by the number of poles. This would dramatically misstate the value per pole, and it is surprising that anyone could make such an enormous error.)

Here, then, is what we know:

- The exorbitant assessments we've been hearing about for months, which are the entire premise for this bill, **never happened**.
- The bill was sold as a way to end 480 lawsuits, but in fact FairPoint acknowledges that it will not end a single lawsuit.
- Not one person with any assessing expertise has expressed support for the bill.
- The state's foremost authority on assessing issues, the ASB, voted unanimously to oppose the bill.

In short, the House passed a bill that (1) was drafted by the people it will benefit, with no input from anyone else, (2) is based on imaginary facts, (3) is intended to achieve a goal that it clearly won't achieve, and (4) is opposed by everyone who knows anything about the subject.

Simply put, the House was duped. In their defense, House members relied in good faith on the representations made to them. Now that those claims have proven false, there is no excuse for continuing this charade.

Pole Valuation - continued

*The Senate Ways and Means Committee may vote on **HB 547** when it meets next Tuesday, April 7. Please contact [committee members](#) before then and urge them to kill HB 547. Please contact your own senator as well.*

Utility Valuation Bill Still Pending

The Senate Ways and Means Committee has not yet voted 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 meets on Tuesday mornings, so there is a good chance it will take up the bill next **Tuesday, April 7**.

If you have not yet contacted your own senators or [members of the committee](#), please do so as soon as possible and urge them to **support HB 192**. The need and the justification for the bill were discussed in [last week's Bulletin](#) (page 3).

House Adopts Budget – Municipal Aid Reduced

On Wednesday the House adopted its version of **HB 1**, the fiscal year 2016/2017 state operating budget. [Last week's Bulletin](#) listed the cuts in state aid to municipalities that were proposed by the House Finance Committee. By a vote of 212-161 (generally along party lines with just a few exceptions), the House concurred with the Finance Committee's recommendations. There were many floor amendments proposed, one of which included among other provisions, restoration of \$5 million in the meals and rooms tax distribution for fiscal year 2017. Unfortunately, that amendment failed by a vote of 212 to 163. Click [here](#) to see how your representative voted on that amendment.

While some legislators disagree with us, our definition of a “cut” includes any reduction in funding to municipalities which requires action by the legislature to change current law. Each of the six categories of state aid shown on the chart on page 5 required changes to current law to reduce or eliminate funding. Those changes are included in **HB 2**, the companion bill that enacts the statutory changes necessary to implement the operating budget, which the House also adopted on Wednesday. In addition to those reductions in municipal aid, there are changes to the education funding statutes. A floor amendment was adopted which provides a “stabilization” grant in fiscal year 2017 at ninety percent of the 2012 level and eliminates the cap on adequacy grants—a provision that will help school districts experiencing increased enrollment over the past few years. However, to fund elimination of that cap, catastrophic aid was reduced. See the New Hampshire School Boards Association April 3rd [Legislative Bulletin](#) for more information.

So what does this mean for your municipality? We have compiled a [list](#) showing the **estimated** reductions by municipality for the biennium based on the following information:

Municipal Aid - continued

- The meals and rooms tax estimate was computed taking the difference between the distributions in December 2013 and December 2014, when an additional \$5 million from the catch-up formula was recognized.
- The water/sewer estimates were provided by the Department of Environmental Services to the House Finance Committee based on the best information available in February.
- The flood control figures are based on the 2014 payments from the Department of Revenue Administration.
- The FEMA match is based on information provided last year with **SB 409**.
- The highway funding is based on estimates associated with the road toll increase last year in **SB 367**.
- Our understanding is that the bridge aid reductions for fiscal years 2016/2017 will delay funding rather than eliminate funding, therefore no municipal impact is provided, but you probably know your situation regarding state bridge aid.
- Estimates of the [education funding changes](#) are available on the General Court website.

The Senate begins its formal review of the budget next week. We anticipate many changes in both revenue estimates and appropriations in the Senate version and will keep you posted as this process continues over the next several months.

Cameras at Polling Places—Requirement Still In, Funding Out

Two weeks ago, [we reported](#) that the House might include a provision in **HB 2** to suspend until 2017 the requirement that moderators take photographs of voters who vote by executing a challenged voter affidavit, rather than by showing a photo ID. (We erroneously referred to a qualified voter affidavit in that article. Our apologies—we do know the difference.) Without the suspension, the requirement would take effect September 1 of this year.

As we mentioned, the law that is scheduled to take effect includes a provision for the Secretary of State to provide each municipality with the necessary photography equipment. Without that provision, municipalities would be required to purchase cameras and printers for use at the polls—an obvious unfunded mandate. Of course, having the Secretary of State provide the equipment would require spending state money, and the Finance Committee was trying to save every dollar it could. That is why the committee considered suspending the requirement.

It seemed, then, that there were two options: (1) repeal (or suspend) the picture-taking requirement to save the state money (and avoid unnecessary hassles for local election officials); or (2) leave the requirement in place and find the money for the Secretary of State to provide the equipment.

Anybody want to guess what the House did? Of course! It left the local mandate in place and eliminated the state funding! Under **HB 2** as adopted by the House, the requirement that the Secretary of State provide the equipment is repealed, but the picture-taking requirement for local election officials remains in place, and will still take effect September 1.

Polling Places - continued

This is a plain, unambiguous violation of part 1, article 28-a of the New Hampshire Constitution. We understand there is a movement afoot for moderators to simply ignore the requirement, and we fully support that approach. We hope, however, that the Senate will avoid this problem by repealing the requirement.

NHMA 4/2/2015		State Aid to Municipalities - FY 16/17 House Budget			
		A Current Law	B Governor Recommended	C House Passed	D Gain/(Loss) A-C
1 Meals & Rooms Distribution	FY 15	63,805,057			
	FY 16	68,805,057	63,805,057	63,805,057	(5,000,000)
	FY17	73,805,057	68,805,057	63,805,057	(10,000,000)
					<u>(15,000,000)</u>
2 Environmental Grants See note 2 below	FY 15	9,163,286			
	FY 16	10,681,218	8,044,775	7,618,201	(3,063,017)
	FY17	11,332,424	7,653,311	7,253,952	(4,078,472)
					<u>(7,141,489)</u>
3 Flood Control See Note 3 below	FY 15	787,898			
	FY 16	825,000	230,700	230,700	(594,300)
	FY17	825,000	230,700	230,700	(594,300)
					<u>(1,188,600)</u>
4 Highway Block Grant	FY 15	30,000,000			
	FY 16	34,885,357	34,885,357	30,885,357	(4,000,000)
	FY17	36,105,706	36,105,706	32,105,706	(4,000,000)
					<u>(8,000,000)</u>
5 Bridge Aid See note 5 below	FY 15	15,100,000			
	FY 16	13,600,000	6,800,000	6,800,000	(6,800,000)
	FY17	13,600,000	6,800,000	6,800,000	(6,800,000)
					<u>(13,600,000)</u>
6 FEMA Match See note 6 below	FY 16	4,319,966	0	0	(4,319,966)
7 Total Aid to Municipalities	FY 16	133,116,598	113,765,889	109,339,315	(23,777,283)
	FY17	135,668,187	119,594,774	110,195,415	(25,472,772)
Governor and House Reductions from Current Law					\$ (49,250,055)

Notes:

- 2 Environmental grants under Column A include *ESTIMATES* of the minimum amount of eligible projects if the moratorium were lifted (per Department of Environmental Services letter to House Finance Division I dated 3/9/15).
- 3 Assumes Massachusetts and Connecticut will not make payments under the flood control compacts in the absence of intervention by the Attorney General's office.
- 5 While funding for Bridge Aid is not required by current law, historically \$6.8 million has been appropriated annually from the Highway Fund. The road toll increase enacted last year provided an additional \$8.3 million in bridge aid in FY 15 and was supposed to provide an additional \$6.8 million each year thereafter.
- 6 FEMA match was appropriated under SB 409 in 2014 for FY 2016. The municipal share was \$4,319,966.

HOUSE CALENDAR
Joint House/Senate Meetings Are Listed Under This Section

TUESDAY, APRIL 7

COMMERCE AND CONSUMER AFFAIRS, Room 302, LOB

2:15 p.m. **SB 254**, establishing a committee to study the provision of services to the public through peer-to-peer or sharing economy businesses.

ELECTION LAW, Room 308, LOB

10:00 a.m. **SB 39**, relative to recounts on questions.

JUDICIARY, Room 208, LOB

2:00 p.m. **SB 243**, relative to nonpublic sessions under the right-to-know law.

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.

11:00 a.m. **SB 63**, relative to membership of the board of directors for the New Hampshire rail transit authority.

11:20 a.m. **SB 231**, relative to the month of inspection for municipal fleets.

WAYS AND MEANS, Rooms 202-204, LOB

10:00 a.m. **SB 113-FN-A-L**, relative to video lottery and table gaming.

WEDNESDAY, APRIL 8

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

11:15 a.m. **SB 88**, establishing a committee to study public-private partnerships for intermodal transportation.

THURSDAY, APRIL 9

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Room 205, LOB

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

WAYS AND MEANS, Room 202, LOB

10:30 a.m. **SB 213-FN-A-L**, establishing a committee to study the formula for distribution of meals and rooms tax revenues.

TUESDAY, APRIL 14

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

10:15 a.m. **SB 241**, relative to authorization for the town of Rindge to make capital expenditures from a trust fund.

10:30 a.m. **SB 141**, relative to powers of the zoning board of adjustment.

10:45 a.m. **SB 77-L**, authorizing the creation of a special purpose village district within the town of Danbury.

Rooms 301-303, LOB

1:00 p.m. **SB 30-FN-L**, permitting counties with unincorporated areas to establish tax increment financing districts.

SENATE CALENDAR

TUESDAY, APRIL 7

TRANSPORTATION, Room 103, LOB

1:15 p.m. **HB 258-FN-L**, relative to fees for preparing motor vehicle registration documents.

WAYS AND MEANS, Room 103, SH

10:00 a.m. **HB 681-FN-A**, increasing the marriage license fee.

WEDNESDAY, APRIL 8

ENERGY AND NATURAL RESOURCES, Room 100, SH

9:45 a.m. **HB 208-FN**, relative to allowance sales under the New Hampshire regional greenhouse gas initiative program.

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

9:00 a.m. **HB 254**, relative to exceptions to restrictions on boating.

9:15 a.m. **HB 286**, relative to permits issued by building inspectors.

9:45 a.m. **HB 486**, authorizing towns and cities to establish special assessment districts.

10:00 a.m. **HB 227**, relative to eminent domain on public lands.

HOUSE FLOOR ACTION

Wednesday, April 1, 2015

HB 1-A, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2016 and June 30, 2017. **Passed with Amendment.**

HB 2-FN-A-L, relative to state fees, funds, revenues, and expenditures. **Passed with Amendment.**

HB 25-FN-A, making appropriations for capital improvements. **Passed with Amendment.**

SENATE FLOOR ACTION

There is no Senate floor action to report this week.

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.

