

LEGISLATIVE BULLETIN

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Highway Funding Top Municipal Priority

As we have reported, state aid to municipalities in the House-approved biennial budget was reduced by \$49 million from what current law authorizes. The largest portion of that reduction—\$21.6 million—comes from reductions in the amount of highway fund revenue going to municipalities, specifically, \$8 million from highway block grants and \$13.6 million from municipal bridge aid.

How did lawmakers come up with these numbers? You remember **SB 367** from last year, right? **SB 367** was the four-cent increase in the road toll (gas tax) enacted last year, the bill that NHMA members strongly supported because it provided additional money in highway block grants and municipal bridge aid. In fact, the additional funds were specifically earmarked in the bill: \$8 million for highway block grants and \$13.6 million for bridge aid.

Coincidence that those numbers are the exactly the same as the House reductions? Not at all. Those hard-won increases were neutralized by offsetting cuts in the existing or “base” bridge aid and highway block grant appropriations. With the bridge aid, the House simply OK’d the Governor’s recommendation to cut the base appropriation by \$13.6 million—exactly the amount of the promised increase from new road toll revenue. A last-minute budget deal in the House resulted in the offsetting cut of \$8 million from the base highway block grants. The effect was to “level fund” municipal highway and bridge aid. *The real effect was to cut the additional municipal funding from the road toll increase before municipalities saw even one penny!*

The NHMA Board of Directors recently determined that NHMA’s top budget priority is the restoration of highway and bridge funding to the level intended when **SB 367** was passed last year. That means that as the Senate prepares its version of the two-year state spending plan, **we need your help in urging senators to include in their budget the promised \$8 million in highway block grants and \$13.6 million in bridge aid to municipalities.**

To that end, *all Senators, not just those on the Finance Committee, need to hear from you* about funding municipal roads and bridges at

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Highway Funding - continued

the levels contemplated when the road toll increase was enacted last year, for the following reasons:

- Municipalities are not asking for more money; we only ask for the funding that was promised less than a year ago when the road toll was increased. These funds were supposed to supplement, not supplant, existing state aid.
- Money from the road toll increase is already coming into the state coffers. In fact, the Senate Finance Committee indicated that total road toll revenues for this year are actually exceeding estimated projections!
- An 8-10-year wait for state bridge aid is unreasonable, which is exactly why part of the road toll increase was allocated to municipal bridge aid in the first place. Many municipalities appropriate their share of the bridge cost well in advance of their allotted project year and hold that money in a reserve fund—they could certainly be “moved up” on the list and be ready to go, if and when state funds are available. Concerns we have heard about municipalities not being able to appropriate their share of the cost or spend the money fast enough appear to be unwarranted.
- NHMA members have long supported a policy to fund highways adequately, whether from a road toll increase, increased motor vehicle registration fees, or any other sources, as long as the revenue is used exclusively for highway purposes and the statutory share (12%) of the gross revenues is distributed to municipalities under the highway block grant provision of RSA 235:23. The House Finance Committee chair and others have publicly stated that the highway fund has a “structural deficit” – revenues are not keeping pace with spending obligations and needs. NHMA members support addressing that deficit appropriately as part of this biennial budget.

Contact your [Senator](#) now and let him or her know how important highway block grant and municipal bridge aid are to your community – especially if you have road projects in the works or are waiting for state bridge aid. [Here is a link](#) to a list by municipality of the increase in highway block grant funding per year that should be provided by last year’s road toll increase.

Other Budget Priorities

As noted in the preceding article, restoration of highway funding is NHMA’s top budget priority. Another priority is the distribution of meals and rooms tax revenue. The House version of the budget suspends (yet again) the statutory catch-up formula for both years of the biennium, freezing the distribution at the 2015 level. The catch-up formula is supposed to work as follows: if meals and rooms tax revenues come in higher than the previous year, then 75% of the increase goes to municipalities, with a cap of \$5 million. As we have explained in the past, the catch-up

Budget Priorities - continued

formula is intended to gradually bring the municipal funding level to 40% of the meals and rooms tax revenues received (the funding level promised, but never met, since the law was enacted in 1967). Currently, municipalities receive approximately 25% of the total revenue.

Adding insult to injury is the fact that meals and rooms tax revenue is coming in very strong this year, higher than estimated in the fiscal year 2015 budget and ***much higher than last year***. If the catch-up formula were left intact, municipalities would see an additional \$5 million in their distribution checks in December and the state would still have received more meals and rooms tax revenue than planned in its budget!

Regarding state aid grants (SAG) for water and wastewater projects . . . the House version of the budget continues the moratorium enacted two years ago. Ideally, we'd like to see the moratorium lifted completely, with the state recognizing the importance of financial participation in funding a portion of the expenses for costly water and wastewater projects that not only benefit the host community, but provide regional and statewide benefits, too. Removing the moratorium would cost the state about \$7.2 million over the biennium. (Have we mentioned that this is almost exactly the amount of additional revenue the state would realize by repealing the pollution control exemption under RSA 72:12-a?)

However, in the absence of lifting the moratorium, there are a number of municipalities with projects that appear to have qualified for SAG funding prior to enactment of the moratorium, but just didn't "get on the list" in time when the 2014-2015 state budget was passed. At a minimum, these projects should be funded in the next budget.

Be sure to talk with your senator about these issues, too!

Mixed Result on Pole, Utility Valuation Bills

The Senate Ways and Means Committee made its recommendations this week on **HB 192**, the **NHMA policy bill** that would prevent the use of DRA utility property valuations in local property tax appeals, and on **HB 547**, the bill that would establish a statutory formula for valuation of telephone poles and conduits. The result was anti-climactic.

The ideal recommendations would have been to pass **HB 192** and kill **HB 547**. Our worst fear was the opposite—a recommendation to kill **HB 192** and pass **HB 547**. The committee chose a middle path.

First, it voted to recommend re-referring **HB 192**. In theory, a bill that is re-referred in the Senate will be studied between legislative sessions and then brought back in the second year and either passed or killed. In practice, however, the study almost never happens, and the bill is inevitably killed. (In contrast, a retained bill in the House usually does get studied and has a realistic chance of passage the following year.)

Pole, Utility Valuation - continued

Meanwhile, the committee recommended amending **HB 547** to drop the statutory valuation formula and instead require the Assessing Standards Board to study both issues—*i.e.*, the valuation of telephone poles and conduits *and* the use of DRA utility valuations in property tax appeals. The ASB would be required to make an interim report to the legislature by December 1 of this year, and a final report by December 1, 2016.

We can live with this. We certainly will be disappointed if **HB 192** does not pass this year, because it would provide immediate relief to dozens of municipalities that are battling the utility companies in superior court and in the BTLA; the longer the issue drags on, the more money will be transferred from property taxpayers to lawyers. However, the issue is not dead, and we are optimistic that the ASB study could recommend legislation as early as next year.

As for **HB 547**, the committee's recommendation may actually be better than simply killing the bill. By sending the issue to the ASB for study, it provides a forum for a careful review of the facts, which will expose the outrageous claims made by FairPoint.

Both bills will go to the full Senate next week. We fully support the recommendation of Ought to Pass with Amendment on **HB 547**. As for **HB 192**, we would love to see the Senate overturn the committee report and instead pass the bill. If any senators want to pursue that effort, we certainly will support it. Realistically, however, that is unlikely, and as long as the issue is being studied, we can live with a re-referral.

Cameras at Polling Places: The Long, Strange Trip Continues

A few weeks ago we reported on the efforts to repeal or modify the law that, as of September 1, will require moderators at elections to take a photograph of anyone who votes by signing a challenged voter affidavit, rather than by showing a photo identification. At that time, the Senate had killed a bill to repeal the odd requirement, and the House had eliminated the funding for the Secretary of State to provide the needed photography requirement. Thus, the law was scheduled to take effect, and municipalities would be required to provide their own cameras and printers, a blatantly unconstitutional mandate.

In the last week, a solution—of sorts—has emerged. The House Election Law Committee this week recommended passage of **SB 39**, relative to recounts on questions, with a non-germane amendment that makes a modest change to the camera requirement: it allows the moderator to take a photograph that “may be in color or in black and white.” (If not changed, the law would require a color photograph.)

Cameras at Polling Places - continued

How, you might wonder, does this solve the problem? By allowing for a black-and-white photograph, the law will enable the Secretary of State's office to buy inexpensive instant cameras that print a photograph without the need for a printer. These apparently can be bought for under \$100 each, so the cost for 300 polling places would be about \$30,000. The budget trailer bill, now in the Senate, would still need to be amended to restore the requirement that the Secretary of State supply the cameras, but we are told that is the plan.

If the plan goes through, then yes, it does eliminate the unfunded mandate. But if ever there was an appropriate application of the phrase "like putting lipstick on a pig," this is it. As we understand it, this is how the process would work: The Secretary of State's office buys 300-plus instant cameras (probably equal to the total number sold in the United States last year), finds a place to store 300-plus instant cameras, trains election officials on their use (presumably not difficult), distributes them to municipalities before each election, and collects them after each election. Given that there will be city primaries in September, city general elections in November, a presidential primary in January or February, town elections in March, April, and May, and state primary and general elections next September and November, with a few special elections sprinkled here and there, that's a lot of distributing and collecting.

And for what? To guard against the approximately one case of identity fraud that occurs in a given decade—and perhaps give a boost to the price of Fujifilm stock? This is silly.

SB 39 will likely go to the House floor on Wednesday, May 6. Because the amendment does begin to address the unfunded mandate problem (although, again, **HB 2** will still need to be amended to close the loop), we encourage representatives to hold their noses and vote for it. However, the real solution remains a repeal of the camera requirement.

Pre-Rulemaking Feedback Request: **Non-Tidal Shoreline Structures**

The New Hampshire Department of Environmental Services (DES) is in the early stages of a process to update and improve dock permitting on **non-tidal waters**, particularly as it pertains to public facilities, commercial uses, and structures on rivers and streams. DES is seeking feedback from a number of interest groups, and has contacted NHMA for assistance in obtaining municipal input, particularly from the perspective of municipal use of the waterfront.

Currently, the only rules that exist are for residential docks and for marinas. There are no rules governing the use of non-tidal waterfront by municipalities for projects such as a riverwalk, a municipal dock, or for development of a waterfront park with a restaurant.

Shoreline Structures - continued

Request for written input

DES seeks input on such issues as:

- What should be the role of the municipality and the state on waterfront property?
- Who should control waterfront property: the municipality or the state?
- Definitions related to waterfront use, including what is a commercial use, etc.?
- What might municipalities want to do on a riverfront, small pond, large pond, lake, etc.?
- How would municipalities like to see their waterfronts developed?

Please provide your written feedback to Darlene Forst, Shoreland Section Supervisor, NH DES Land Resource Management Programs by email:

Darlene.Forst@DES.nh.gov. Indicate what types of activities or development your municipality might like to undertake on waterfront property, provide answers to the above questions, and be sure to include your contact information.

GOALS

The goal at this point is to develop a strategy for the permitting of structures in non-tidal public waters that would allow reasonable use and economic development while minimizing the impacts on water quality, wildlife, and public use.

DES would then put together a regulatory framework for the proposed rules that will allow the Department to implement the strategy in a quick and efficient manner that maximizes predictability, transparency, and accountability.

It is anticipated that there may be a working group to help sort through the feedback received and guide the development of the strategy and draft rules. Please let Darlene know if you would like to participate in a working group on this issue.

School Boards Association Legislative Bulletin

Beginning this week, we are including a link to the Legislative Bulletin of the New Hampshire School Boards Association. NHMA does not cover school issues, but obviously they are of interest to municipalities, especially to those cities with dependent school districts. There is some overlap between the issues that NHMA and NHSBA cover—for example, Right-to-Know Law, town and school district meeting procedures, employment, and the state retirement system—but the NHSBA Bulletin is the best place to read about legislation that uniquely affects schools and school districts.

The link will appear each week after the last article and before the legislative calendars.

Click [here](#) for the NH School Boards Association's Legislative Bulletin.

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

TUESDAY, APRIL 28

WAYS AND MEANS, Room 202, LOB

10:00 a.m. Continued public hearing on **SB 213-FN-A-L**, establishing a committee to study the formula for distribution of meals and rooms tax revenues.

SENATE CALENDAR

TUESDAY, APRIL 28

JUDICIARY, Room 100, SH

9:00 a.m. **HB 290**, relative to the acceptance of risk in outdoor recreational activities.

9:20 a.m. **HB 292**, expanding the good Samaritan law to engineers and architects.

WEDNESDAY, APRIL 29

ENERGY AND NATURAL RESOURCES, Room 100, SH

9:00 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.

TUESDAY, MAY 5

FINANCE, Representatives' Hall, SH

3:00 p.m. to 5:00 p.m.

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.

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

6:00 p.m. to 8:00 p.m.

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.

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

Please note:

These hearings will be streamed live via the Internet at the following web address: http://nhgencourt.granicus.com/ViewPublisher.php?view_id=1

HOUSE AND SENATE FLOOR ACTION

There is no House or Senate floor action to report this week.

NHMA Webinar

NHMA Webinar - It's All About the People

Event Date: Wednesday, May 20, 2015

Time: 12:00 PM - 1:00 PM

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

The success of local government rests on the shoulders of local officials, employees, and volunteers, from select boards and department heads to planning board members and seasonal employees. This means that each city and town must strive to build a strong and effective team, which is not always easy to do. So take a break with Legal Services Attorneys Stephen Buckley and Margaret Byrnes to talk about the variety of issues that arise when you are trying to recruit, hire and retain that team, including New Hampshire employment law, volunteerism, best practices, and more.

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

[Click here to register before May 19](#)

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.

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.