

LEGISLATIVE BULLETIN

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2015 Session

May 1, 2015

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Senate Finance Committee Budget Hearing Next Tuesday

The Senate Finance Committee is continuing its deliberations on the biennial state operating budget (**HB 1** and **HB 2**) and capital budget (**HB 25**), and is scheduled to hold a public hearing on **Tuesday, May 5, from 3:00 p.m. to 5:00 p.m. and from 6:00 p.m. to 8:00 p.m. in Representatives’ Hall at the State House.** Last week’s *Legislative Bulletin* included a recap of the reductions in state aid to municipalities as adopted by the House, and the top budget priorities determined by the NHMA Board of Directors.

Is your municipality currently on the waiting list for bridge aid? (By the way, that wait is now eight to ten years if you ask to put a bridge on the list today!) How about the effects of this past winter on your road maintenance operations? Let your senator know the implications of not receiving the promised funding from last year’s road toll increase.

What about water and wastewater projects? We know there are at least fifty such projects that have proceeded in the past few years, and many more in the works that will continue to proceed, despite the moratorium placed on state participation in the costs. Talk with your senator about the longstanding (over 50 years) state-local “partnership” for these vital infrastructure improvements, which provide not just local, but regional and statewide economic benefits.

As for the meals and rooms tax distribution, every municipality would lose under the budget as it now stands. With the current “catch-up” formula in law, municipalities are supposed to receive an additional \$5 million in December, and likely another \$5 million increase the following year—\$15 million over the biennium. Urge your senator to continue the catch-up formula, rather than suspending it as the proposed budget does. This formula is designed to *gradually* raise the municipal portion of the distribution from 25% currently to the statutorily required 40% of the gross revenue. And we do mean gradually – it will likely take fifteen years or longer to reach 40%, and then only if the catch-up formula remains in effect. Money from the meals and rooms tax is coming in strong (exceeding both last year’s collections and the estimated budget for this year) and is expected to continue doing so through 2017. It is unreasonable to reduce that funding to municipalities.

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Budget Hearing - continued

If you haven't already done so, now is the time to let your senator know the impact of the proposed budget reductions on municipal operations and, more importantly, the impact on property taxpayers in your municipality. Plan to testify at the hearing, send written testimony, or speak directly with your senator. Please let us know about these conversations, so we can reinforce your message when we speak with senators.

Senate to Hear Cross-Border Public Safety Protection Bill

On **Tuesday, May 12, at 9:20 a.m., in State House Room 100**, the Senate Judiciary Committee will hear **HB 415, NHMA's policy bill** to extend the protections available to New Hampshire's emergency responders to out-of-state emergency responders who assist with incidents within New Hampshire borders. The goal of this legislation is to make sure that assistance from these out-of-state public safety workers will continue to be available to New Hampshire's border communities when emergencies arise, despite the differing protections provided by each state's laws. Many municipalities line the state's borders, and this will benefit them all. Please let the [Senate Judiciary Committee](#) know of your support for this legislation (and share that with us, too!).

Hearings Scheduled on Mining Bills

The Senate Energy and Natural Resources Committee has scheduled hearings for next week on two **NHMA policy bills** that would give municipalities more input into decisions regarding mining activities. **HB 233** and **HB 451** would clarify that RSA 12-E, the state mining and reclamation statute, does not preempt a local ordinance unless the ordinance is less stringent than the statute, and does not preempt local regulation of activities that are exempt from state regulation. If your municipality is affected by mining activities, please try to attend the hearings, or contact [committee members](#) and let them know you support these bills.

Both hearings are scheduled for **Wednesday, May 6, in State House Room 100**. **HB 233** is scheduled for **9:00 a.m.**, and **HB 451** is scheduled for **9:15 a.m.**

No Surprises on Pole Valuation, Utility Valuation Bills

The Senate voted 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. As expected, the Senate adopted the Ways and Means Committee's recommendations to (1) re-refer **HB 192** and (2) amend **HB 547** to 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.

Pole, Utility Valuation - continued

That is the end of the road (for this year, at least) for **HB 192**. As for **HB 547**, it will now go back to the House with a request to concur in the Senate amendment. The House may concur, refuse to concur and let the bill die (unlikely), or request a committee of conference.

Poker Time

That's the time of year when each legislative chamber begins trying to revive bills that the other has killed. The way it typically happens is that the Senate, for example, learns that the House has killed a bill passed by the Senate, so the Senate adds the language of the dead bill to a House bill—which it can do because it now has possession of most of the House bills. The Senate then sends the bill back to the House, which can (1) accept the Senate's amendment, thus essentially acquiescing in the passage of a bill it has previously voted to kill, (2) call the bluff and let the bill die, thus killing a bill it has previously passed (but perhaps attaching the original House bill's language to a Senate bill), or (3) request a committee of conference and keep the game going.

It also works in reverse—after the Senate kills a House bill, the House adds the same language to a Senate bill and sends it back to the Senate.

Continuing in this grand tradition, the Senate Public and Municipal Affairs Committee this week “borrowed” two House bills as vehicles for amendments. Here is what is going on:

- **SB 141** is the bill that would eliminate the requirement that three members of a ZBA vote in favor of an applicant's request in order for the application to be granted, even when there are only three board members present. The Senate passed the bill, but the House killed it. The Public and Municipal Affairs Committee this week voted to attach the language of **SB 141** as an amendment to **HB 486**, a bill passed by the House that would allow municipalities to establish special assessment districts to fund capital improvement projects and public services.
- **SB 146** is the bill requiring municipalities to allow accessory dwelling units, either as a matter of right or by special exception, in all zoning districts that allow single-family dwellings. After passing the Senate, the bill ran into trouble in the House, where it got a skeptical reception in the Municipal and County Government Committee. That committee heard the bill ten days ago and has not yet taken action on it, but the Senate committee decided not to wait. This week it voted to attach the language of **SB 146** to **HB 102**, a bill that requires every article on a town meeting warrant to be acted upon before the meeting can be adjourned.

The two House bills, **HB 486** and **HB 102**, will go to the full Senate next week with the amendments recommended by the committee. NHMA supports **HB 486** and has no position on the amendment. On **HB 102**, NHMA has no position on

Poker Time - continued

either the underlying bill or the amendment. Given that the Senate has already passed the language of the two amendments once, it is quite likely that it will pass the bills with the committee's amendments. Then each bill will go back to the House, and the game will continue.

Other Municipal Bills

Meanwhile, plenty of other bills affecting municipalities have seen action in the last couple of weeks. Here are some of the things that have been happening:

Blue lights on emergency vehicles. The Senate this week passed **HB 130**, the **NHMA policy bill** that allows the use of one rear-facing blue light on municipally owned emergency vehicles such as fire trucks and ambulances. The bill will go next to the Governor.

Sealing nonpublic session minutes. **HB 108** bill requires that any vote by a public body to seal the minutes of a nonpublic session be taken in public session. The discussion of whether to seal the minutes can be held in nonpublic session, but the vote would have to be taken in public session. The Senate passed the bill without amendment this week, so it is on its way to the Governor.

Concealed firearm fees. **HB 607** changes the law that currently says that fees paid to a municipality for a concealed-carry license “shall be for the use of the law enforcement department of the town.” The new law would say simply that the fee is for the use of the town. The Senate passed the bill this week.

RGGI funding. **HB 208**, which as introduced would have repealed the regional greenhouse gas initiative (“RGGI”), was amended in the House to keep the program but eliminate the funding (up to \$2 million per year) from the sale of carbon dioxide allowances that is available to municipalities for energy efficiency projects. The bill as amended by the House would rebate all proceeds from those sales to electric ratepayers. An amendment has been proposed in the Senate to restore the funding for municipal projects; in fact, as we understand it, the amendment would provide more funding for municipal projects than is available currently. The bill had a hearing in the Energy and Natural Resources Committee on April 8 and is awaiting action by that committee.

Special assessment districts. **HB 486** allows municipalities to establish special assessment districts to fund capital improvement projects and public services. As noted in the article above (“Poker Time”), the bill passed the House but is being used by the Senate as a vehicle for its ZBA legislation. It will go to the full Senate next week, where it is likely to pass with the amendment. Its fate after that is uncertain.

Minimum number of voting booths. **HB 493** reduces the number of voting booths that must be set up for municipal elections to one for every 200 registered voters. For other elections, the current requirements are unchanged (state general election in presidential election year—one for every 100 voters; general election in

Other Municipal Bills - continued

non-presidential election year—one for every 125 voters; other elections, including state primary—one for every 150 voters). The bill has passed both chambers, but was amended slightly in the Senate, so the House will need to decide whether to concur.

Third-party review for planning board applications. **SB 98** provides that when a planning board requires review of an application by an independent consultant at the applicant's expense, the applicant may request that the board use a consultant other than the one proposed by the board. The board must consider the request, but the decision is ultimately up to the board, in its "reasonable discretion." Both chambers have passed the bill; the House amended it slightly, and the Senate concurred, so it will be on its way to the Governor soon.

Definition of phased development. **SB 143** defines "phased development," as used in the innovative land use control statute, as "a development, usually for large-scale projects, in which construction of public or private improvements proceeds in stages on a schedule over a period of years established in the subdivision or site plan approved by the planning board." We consider this a clarification, not a change in law. The bill expressly states that phased development "does not include a general limit on the issuance of building permits or the granting of subdivision or site plan approval in the municipality, which may be accomplished only by a growth management ordinance under RSA 674:22 or a temporary moratorium or limitation under RSA 674:23." Both the House and the Senate have passed the bill without amendment, so it will go to the Governor.

Nonpublic sessions for discussion of litigation. **SB 243** makes a long-overdue correction to the Right-to-Know Law, which currently allows a public body to enter nonpublic session to discuss "pending claims or litigation which has been threatened in writing or filed *against* the public body or any subdivision thereof." The bill amends the law to allow discussion of claims or litigation threatened in writing or filed *by or against* the public body. Both chambers have passed the bill without amendment. (Note: This is separate from **HB 285**, which, as passed by the House, would allow nonpublic sessions for the discussion of correspondence from legal counsel. That bill is awaiting action by the Senate Judiciary Committee.)

Increased fees for preparing motor vehicle permits. **HB 258** raises from one dollar to two dollars the fee paid to the clerk under RSA 231:152 for preparing municipal registration permits for motor vehicles. This is separate from the permit fee itself, which is governed by RSA 231:153 (and is much higher). The House passed the bill, and the Senate this week passed it, by a 17-7 margin, with a minor amendment. (The amendment updates the statute, which currently requires that the forms "be prepared by typewriter." Under the amendment, they must be prepared "by typewriter or printer.") The bill is going to a second committee—Finance—in the Senate, so it is not over yet.

Divestiture Dilemmas

We waded into the waters of the PSNH/Eversource divestiture this week, and found them to be deep and cold! What we did learn is that under the divestiture plan, there may be increased electricity costs for some municipalities, and decreased costs for others. The effects on municipalities will be the same as for other electricity purchasers, except that those with particularly high usage, such as may be required to operate a wastewater treatment facility, will consequently see a greater increase in costs.

As we learned, municipalities in the PSNH/Eversource service/distribution area **that purchase their electricity from a competitive electric power supplier** will likely see their rates increase as charges are added to recover stranded costs—costs that are not covered by the sale of the PSNH/Eversource generating assets. Again, those municipalities with a higher usage load will see a greater increase; for example, if you use 55 million KWH/year, you could see your electric bill increase approximately \$300,000 under the current proposal.

On the other hand, those municipalities in the PSNH/Eversource distribution area that have not “shopped” and still purchase their electricity from Eversource may see a decrease in their electric costs. If you are not sure where your municipality stands with all of this, [here is a link](#) to a map showing the different service/distribution territories. Our understanding is that if you are not in the Eversource area, you will not be affected, so that’s a good place to start.

There are proceedings before the Public Utilities Commission and divestiture-related legislation in the pipeline, both of which are beyond the scope of NHMA’s mission and capacity, particularly as there will be differing impacts on municipalities. We just want our members to be aware of the potential for a sizeable utility bill increase if certain circumstances exist.

Legislators Invited to Tour Manchester Water, Wastewater Facilities

The New Hampshire Water Pollution Control Association and the New Hampshire Water Works Association cordially invite legislators to join them for a tour of the Manchester Water Works and the Manchester Wastewater Treatment Plant from 9:00 a.m. to noon on Friday, May 15th. At noon, there will be a barbecue lunch at the Manchester Wastewater Treatment Plant.

9:00 a.m. Tour - Drinking Water Facility

MANCHESTER WATER WORKS,

1581 Lake Shore Road, Manchester, NH 03109 (603) 792-2851

[Get Directions](#)

10:30 a.m. Tour - Wastewater Treatment Plant

Environmental Protection Division, Manchester Wastewater Treatment Plant City of Manchester,

300 Winston Street, Manchester, NH 03103 (603) 624-6341

[Get Directions](#)

Legislators: Tour Manchester Water - continued12:00 Noon Lunch**BBQ at the Manchester Wastewater Treatment Plant**

RSVP for parking and lunch count purposes:

Elizabeth Harrington at 603-321-7012 or NHWPCA.elizabeth@gmail.com

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

HOUSE CALENDAR**Joint House/Senate Meetings Are Listed Under This Section****MONDAY, MAY 11****ASSESSING STANDARDS BOARD (RSA 21-J:14-a), NH Department of Revenue
Administration, 109 Pleasant St., Concord**

9:30 a.m. Regular board meeting.

TUESDAY, MAY 12**JUDICIARY, Room 208, LOB**10:00 a.m. **SB 41**, establishing a commission to study government immunity from
suit and accountability by its citizens.**SENATE CALENDAR****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](http://nhgencourt.granicus.com/ViewPublisher.php?view_id=1)

Senate Calendar - continued**WEDNESDAY, MAY 6****ENERGY AND NATURAL RESOURCES, Room 100, SH**

- 9:00 a.m. **HB 233**, relative to local approval of mining activity. **NHMA Policy.**
 9:15 a.m. **HB 451**, relative to local approval of mining permits. **NHMA Policy.**
 9:30 a.m. **HB 464**, establishing the traditional commercial and recreational fishing protection act, prohibiting political subdivisions from interfering with commercial and recreational operations.
Please note: Proposed amendment #2015-1461s to HB 464 will be introduced during the public hearing and will be open to testimony.

TUESDAY, MAY 12**JUDICIARY, Room 100, SH**

- 9:20 a.m. **HB 415**, limiting liability of out-of-state emergency services entities responding to incidents in New Hampshire.
 10:20 a.m. **HB 287**, allowing citizens to record by audio or video a traffic stop by law enforcement officers.

HOUSE FLOOR ACTION

Wednesday, April 29, 2015

SB 13, relative to the disposition of dedicated funds. **Inexpedient to Legislate.**

SB 72, (2nd New Title) establishing a commission to study the use of police personnel files as they relate to the Laurie List. **Passed with Amendment.**

SB 113-FN-A-L, relative to video lottery and table gaming. **Inexpedient to Legislate.**

SB 116-FN, repealing the license requirement for carrying a concealed pistol or revolver. **Passed with Amendment.**

SB 141, relative to powers of the zoning board of adjustment. **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 227, relative to calculating the cost of an adequate education. **Passed with Amendment. Referred to F-H.**

SB 230-FN-L, relative to speed limits on state roads that are seasonally congested by pedestrian and bicycle traffic. **Passed with Amendment.**

SB 231, relative to the month of inspection for municipal fleets. **Passed.**

House Floor Action - continued

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

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

SENATE FLOOR ACTION

Thursday, April 30, 2015

HB 108-FN, relative to sealing nonpublic session minutes. **Passed.**

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

HB 130, relative to the use of blue lights on emergency vehicles. **NHMA Policy. Passed.**

HB 155, relative to municipal contracts for police chief. **Passed.**

HB 178, relative to exclusions from seasonal highway weight limit regulations. **Passed.**

HB 192, relative to the valuation of utility property. **NHMA Policy. Re-referred to Committee.**

HB 193, relative to utility assessments for the use of village district roads. **Passed.**

HB 200, allowing homestead food operations exempt from licensure to sell homestead food products at retail food stores. **Passed.**

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

HB 227, relative to eminent domain on public lands. **Tabled.**

HB 254, relative to exceptions to restrictions on boating. **Passed.**

HB 258-FN-L, relative to fees for preparing motor vehicle registration documents. **Passed with Amendment. Referred to F-S.**

HB 272, designating the Ham Branch River watershed in Easton as a protected river, and exempting portions of the Ham Branch River watershed from the shoreland water quality protection act. **Inexpedient to Legislate.**

HB 331, relative to absences among selectmen on election day. **Re-referred to Committee.**

Senate Floor Action - continued

HB 344, (New Title) relative to tax increment financing plans of municipal economic development and revitalization districts. **Passed with Amendment.**

HB 362, relative to the reliability of the electric grid. **Passed.**

HB 407, (2nd New Title) establishing a committee to study the classifications of military vehicles and equipment that may be purchased by the state and its political subdivisions and establishing a committee to study honorary legislation. **Passed with Amendment.**

HB 492, relative to military and historic re-enactments and commemorations. **Passed.**

HB 493, (New Title) relative to minimum voting booths for city, town, school district, and village district elections. **Passed with Amendment.**

HB 497, relative to interference with a cemetery burial plot. **Passed.**

HB 547, (2nd New Title) requiring the assessing standards board to make recommendations on the valuation of telecommunications poles and conduits and the assessment of utility property. **Passed with Amendment.**

HB 607, relative to fees for carrying a concealed firearm. **Passed.**

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

HB 662-FN-L, relative to property taxes paid by chartered public schools leasing property. **Passed with Amendment.**

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.