

# LEGISLATIVE BULLETIN

Bulletin #20

2015 Session

May 15, 2015

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This week the Senate Finance Committee began voting on budget recommendations for a number of state agencies and programs, including several affecting municipalities. As we have stated in the past several *Bulletins*, NHMA’s budget priorities are to:

- restore funding for municipal highway and bridge aid, as promised when the gas tax was increased last year,
- restore the catch-up formula for the meals and rooms tax distribution to move municipalities closer to their statutory 40% share, and
- appropriate the state aid grant (SAG) funds necessary to pay the state’s share of local water and wastewater projects as required by statute.

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These items will be addressed by the committee within the next two weeks, and may be voted on as early as next Monday. All senators, but more importantly members of the [Senate Finance Committee](#), need to hear from their municipal constituents **now!** The message should be very clear and concise: municipal highway and bridge aid is a public safety issue; the meals and rooms tax distribution provides property tax relief; and the SAG funding supports clean water and economic development statewide—all issues that should resonate with every legislator. Further explanations of these priorities are available in [Legislative Bulletin #18](#) and in [NHMA's Senate budget testimony](#) for last week’s public hearing on the budget.

Action taken this week by the Senate Finance Committee directly affecting municipalities included:

- Deleting **HB 2** language that limited the payments-in-lieu-of-taxes for eighteen municipalities involved in interstate flood control compacts. The committee’s intent is for the State of New Hampshire to make those municipalities whole regardless of whether the other states involved in these compacts (Massachusetts and Connecticut) honor their obligations.

### Municipal Aid - continued

- Appropriating \$100,000 from Help America Vote Act (HAVA) funds to the Secretary of State's office to purchase cameras for use by municipal election officials in compliance with statutory voter photo requirements.
- Funding the Land and Community Heritage Investment Program (LCHIP) at \$3.5 million each year of the biennium (the same level as recommended by the Governor and the House).

**Please talk with your senator right away, especially Finance Committee members, and let them know about the top three priorities for state aid to municipalities. Ask them to keep the state's promises and maintain its partnership with municipalities!**

### State Funding for Water/Wastewater Projects *Call Your Senators NOW!*

As discussed in the preceding article, the Senate Finance Committee will likely take up the issue of the state aid grants (SAG) for water and wastewater projects early next week. As **HB 1** (*i.e.*, the House version of the budget) currently stands, existing obligations, meaning projects for which state funding has already been approved by the Governor and Executive Council, are included in the budget. However, **HB 2** includes a provision to continue the existing moratorium on any new SAG funding through June, 2017. One of NHMA's policies is to eliminate the moratorium and restore full funding for the SAG program. The cost to do that is approximately \$7.2 million over the biennium, funding 60 projects in 27 municipalities statewide.

Tier 2. In the absence of lifting the moratorium, there are a number of municipalities with projects that qualified for SAG funding prior to enactment of the moratorium in 2013. These are projects that received local financing approval prior to December 31, 2008, but for one reason or another didn't "get on the list" in time when the 2014-2015 state budget was passed. One of NHMA's state budget priorities is that these qualified projects, which became known as the tier 2 projects, should be funded in the next budget. While the Governor included funding in her budget for eight tier 2 projects in 5 municipalities, the House cut all of it (\$825,933) from its budget.

Revised Tier 2. The Department of Environmental Services (DES) has now identified another 12 projects that meet the tier 2 criteria [Click here](#) for a **revised tier 2 list** which shows the original eight tier 2 projects and the additional 12 projects recently identified by DES. Funding the revised tier 2 list would require appropriations of \$949,582 in fiscal year 2016 and \$1,471,381 in fiscal year 2017.

**Municipalities on the revised tier 2 list should contact their senators immediately and urge funding for all eligible tier 2 projects. These projects are now completed or near completion, and the host municipalities rightfully expect the state to fund its share of the debt payments as promised.**

## No Action on Accessory Dwelling Units This Session

The House Municipal and County Government Committee voted this week to retain **SB 146**, the bill that would require municipalities to allow accessory dwelling units (ADUs) as a matter of right or by special exception, and would limit the restrictions that can be imposed on ADUs. When a House committee votes to retain a bill, the question does not go to the full House; the bill stops there. Thus, **SB 146** will stay in the committee, which will study it between now and November and issue a recommendation to the full House for next year.

Meanwhile, we reported two weeks ago that the Senate Public and Municipal Affairs Committee, anticipating unfavorable action on **SB 146** in the House, had attached the language of the bill as an amendment to another bill, **HB 102**, to keep it alive. In an apparent compromise, however, the Senate passed **HB 102** this week without the amendment. We understand this was a concession in exchange for the House committee's decision to retain **SB 146**, rather than kill it, and it appears there will be no further attempts to revive the issue in the Senate. Consequently, all of the action will be with **SB 146** itself as the House committee studies it between now and November.

If you are interested in this issue, watch the [House calendars](#) between now and the fall for notice of subcommittee meetings on **SB 146**.

## Vote Delayed on ZBA Procedure, Assessment Districts

We also reported two weeks ago that the Public and Municipal Affairs Committee had attached the language of **SB 141**, eliminating the requirement of a three-vote zoning board majority under RSA 674:33, III (which the House killed), to **HB 486**, the bill allowing municipalities to create special assessment districts. The Senate was scheduled to vote on the bill this week, but delayed the vote until next week because of last-minute questions about the underlying bill.

## Legislative Hodgepodge

While we wait for more budget developments, let's take this opportunity to catch up on some other bills of municipal interest:

***Cameras at polling places.*** The Senate Finance Committee this week considered and rejected suggestions that **HB 2** be amended to eliminate the requirement that moderators take photographs of voters who obtain a ballot by completing a challenged voter affidavit, rather than by showing a photo identification. The majority of committee members were not swayed by the petition signed by almost 150 local election officials urging repeal of this requirement. As noted in the budget article above, the committee did vote to include funding in the budget for the Secretary of State's office to buy photography equipment for election officials. This solves the unfunded mandate problem, although it does not solve the law's silliness.

### Legislative Hodgepodge - continued

**Local regulation of mining.** The Senate Energy and Natural Resources Committee voted this week to recommend passage of **HB 233** and **HB 451**, two **NHMA policy bills** that would clarify the role of municipalities in regulating mining and quarrying operations. A superior court judge ruled last year that the state statute on mining and quarrying, RSA 12-E, completely preempts local ordinances and regulations, even though the statute expressly states the exact opposite. **HB 233** and **HB 451** clarify municipal authority so that the same mistake is unlikely to be made again. The committee recommended amendments that will improve both bills, and they will go to the full Senate next week or the following week.

**Taxing the use of village district rights-of-way.** We have not previously reported on **HB 193**, but we have followed it closely. The bill adds one sentence to RSA 52:3-a: “No town or city shall levy any fee or collect any tax for the use by any utility of roads maintained by a village district under RSA 52:1, I(m), except on the vote of the village district commissioners for remittance to the village district.” We believe this simply clarifies existing law: if the roads are maintained by a village district, and not by the city or town, it is only the village district that may tax the use of the road. The Senate passed the bill without amendment two weeks ago, so it is on its way to the Governor.

**Voting on budgets in SB 2 towns.** Two bills that would change the way voters in official ballot referendum (SB 2) towns vote on their budgets have been put on hold in favor of a committee to study the issues. **HB 689** would have given a town the option to vote on the default budget by official ballot in the event the proposed budget failed, and to hold one traditional-style meeting to adopt a budget if both the proposed and default budgets failed. **SB 242** would have required that any amendments to the budget adopted at the deliberative session be placed on the ballot for a separate vote in the event the proposed budget passes.

The House passed **HB 689** and the Senate passed **SB 242**, but each bill ran into significant opposition in the second chamber. In a compromise, the Senate re-referred **HB 689**, and the House Municipal and County Government Committee has recommended an amendment to **SB 242** that would gut the bill and replace it with language that creates a committee to study both issues. The committee’s charge is to study “methods of adopting a final and default budget in official ballot towns” and “methods of voting on the budget and budget amendments on the official ballot.” The committee would report its findings and recommendations for legislation by November 1. We anticipate that the House will pass the amended version of **SB 242** when it meets next.

**Notice of recounts on ballot questions.** **HB 133** is another bill made necessary by a state official’s misinterpretation of the law. Current law (RSA 40:4-c) establishes a process for a recount on a question that has been voted on by official ballot at town meeting, upon the written request of ten or more voters. A year ago a representative from the Attorney General’s office issued a cease-and-desist order to a town clerk who was about to conduct a recount, on the ground that she had not

### Legislative Hodgepodge - continued

given notice of the date and time of the recount to the persons who had requested the recount. Of course, nothing in the existing law *requires* the giving of notice. (The clerk must notify affected candidates about an *election* recount, but that is entirely different.)

Local officials from the affected town proposed **HB 133** to clarify the law and avoid this “problem” in the future. (We might have been less conciliatory. The law was already clear--the problem was not the law, but the state’s misguided attempt to enforce it.) The bill, as passed by the Senate last week, provides that the clerk must give written notice to the first-named person on the recount petition, as well as to any other person who has requested notice in writing. Because the Senate passed a different version than the House, the House will need to decide whether to concur or request a committee of conference.

### DES Proposes Rules on State Revolving Loan Fund

The Department of Environmental Services is proposing to readopt, with amendment Env-Wq 500, State Water Pollution Control Revolving Loan Fund. The Initial Proposal and Rulemaking Notice (including the Fiscal Impact Statement) for the rules are available at <http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm#pwaterq>.

The existing rules implement RSA 486:14, I, by establishing (a) the procedures and criteria applicable to eligible entities that apply for financial assistance from the state water pollution control revolving fund (CWSRF), (b) the requirements for completing projects for which financial assistance from the CWSRF is received, and (c) the process for establishing repayment requirements for the financial assistance received. The rules were amended extensively in 2009 to accommodate receipt and disbursement of federal stimulus funds, but the rules that were not part of that proceeding are scheduled to expire on May 8, 2015. The Department is thus proposing to readopt the entire chapter with amendments.

As part of the readoption, revisions are proposed to (1) add definitions for terms that are used in the rules and delete definitions of terms that are not used in the rules; (2) move statutory definitions to an appendix so rulemaking will not be required if the definitions change; (3) clarify the rules based on comments received from stakeholders and the Office of Legislative Services, Administrative Rules office on the recently-readopted Drinking Water SRF rules; (4) revise the rules as needed to reflect changes to federal law (including allowing certain non-municipal organizations and additional non-point source (NPS) pollution abatement projects, including BMPs, to be eligible) and advances in technology; and (5) add the requirements for procuring consulting engineering services that previously were in Env-Wq 600.

**Revolving Loan Fund** - continued

The **public hearing** is scheduled for **Thursday, June 4, 2015**, at **9:00 a.m.** in the Auditorium of the DES Offices at 29 Hazen Drive, Concord, NH. The deadline for filing written comments is **4:00 p.m. on Friday, June 12, 2015**.

Comments or questions should be directed as follows:

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

**HOUSE CALENDAR**

Joint House/Senate Meetings Are Listed Under This Section

**THURSDAY, MAY 21****JUDICIARY, Room 208, LOB**

10:00 a.m. Continued public hearing on **CACR 5**, relating to legal actions. Providing that taxpayers have standing to bring actions against the government.

**SENATE CALENDAR****WEDNESDAY, MAY 20****ENERGY AND NATURAL RESOURCES, Room 100, SH**

9:00 a.m. Hearing on proposed amendment **2015-1677s** - establishing the traditional commercial and recreational fishing protection act, prohibiting political subdivisions from interfering with commercial and recreational operations, and relative to rulemaking by the commissioner of environmental services on certain minimal impact projects to **HB 464**, establishing the traditional commercial and recreational fishing protection act, prohibiting political subdivisions from interfering with commercial and recreational operations.

## HOUSE FLOOR ACTION

There is no House floor action to report this week.

## SENATE FLOOR ACTION

Thursday, May 14, 2015

**HB 102**, relative to consideration of warrant articles. **Passed.**

**HB 463**, relative to state agency communications. **Re-referred to Committee.**

**HB 553-FN**, relative to dealer registration privileges by a dealership management company and proof of ownership of a vehicle at the time of sale. **Passed with Amendment.**

**HB 681-FN-A**, (3rd New Title) establishing a fine for persons convicted of domestic violence and increasing the marriage license fee. **Passed with Amendment.**

### Right-to-Know Law: Current Issues

When: June 11, 2015

Time: 7:00—9:00 p.m.

Location: 645 Old Turnpike Road, Salisbury NH

Call 800-852-3358, ext. 3350 for more information

Click [here](#) to register on-line (*free to NHMA members*)

### Fundamentals of Local Welfare

Thursday, June 18, 2015

9:00 a.m.—2:30 p.m.

An informative session for municipal officials new to local welfare administration. This workshop is presented by the NH Municipal Association and the NH Local Welfare Administrators Association. Attendees will receive a copy of NHMA's 2015 edition, *The Art of Welfare Administration*.

For more information and to register online, click [here](#).