

LEGISLATIVE BULLETIN

Strong Support for Continued Medicaid Expansion

HB 1696, the bill to reauthorize Medicaid expansion, was recommended Ought to Pass with Amendment on Tuesday by a very strong 17-1 vote of the House Health, Human Services and Elderly Affairs Committee. The amendment was a modified version of the re-worked program presented at the committee hearing by the bill’s leading House and Senate sponsors.

NHMA supports the reauthorization of Medicaid expansion, known as the New Hampshire Health Protection Plan (NHHP), because it saves local property tax dollars spent on local welfare programs and because it covers substance abuse treatment, which will help to curb the increasing demands on municipal first responders dealing with addiction-related issues. The additional funds needed for the reauthorization will come from voluntary contributions by hospitals and insurance companies, without the use of state general funds.

Local Welfare Savings

Many people don’t know much about local welfare—New Hampshire’s version of general assistance—the safety net for those in financial distress—the program of last resort. Pursuant to law (RSA chapter 165), every municipality operates a local welfare program which is paid for 100% with property tax dollars. RSA 165:1 states, “Whenever a person in any town is poor and unable to support himself, he shall be relieved and maintained by the overseers of public welfare of such town, whether or not he has residence there.”

Local welfare programs provide help only with basic needs—food, shelter, heat, clothing—and cover prescription medications which an eligible person has no other way to obtain. To qualify, recipients must have little to no resources of their own. Local welfare is often thought of as emergency assistance, but as long as a person remains financially eligible, meaning he or she cannot afford basic needs, the municipality must provide assistance.

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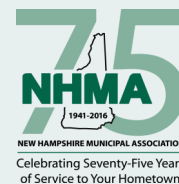
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The 234 local welfare programs in the state—one for each municipality—are not equipped to oversee an insurance/provider/treatment program with the complexity of Medicaid, while using only property tax dollars. But local welfare officials have seen first-hand the significant benefits to their clients and the resulting savings in local welfare costs provided by the NHHPP. The data collected from local welfare officials in the 13 cities show that after just one year of operation, local welfare expenditures, particularly for prescriptions, have dropped dramatically—as much as 80 and 90 percent!

Local welfare officials have also seen savings from the availability of medical coverage that enables individuals to return to work. Once their health problems are treated and they return to the workforce, these **workers** no longer need local welfare assistance. These savings are less quantifiable, but local welfare officials know that these results of Medicaid expansion are real.

First Responders

The importance of the NHHPP in battling the state’s substance abuse emergency will also be felt at the local level. City and town first responders from every corner of the state have dealt with drug and alcohol abuse issues with alarming frequency—there is no dispute about that. The need for intervention and treatment is widely recognized, and much effort has been devoted to addressing these issues with increased vigor. The NHHPP is an important piece of that.

Representatives from Manchester, Concord, Franklin, and Merrimack attended the hearing in support of reauthorization. The New Hampshire Local Welfare Administrators Association supports the bill (read their testimony [here](#)) and the City of Keene submitted a letter of support, which you can read [here](#).

For these reasons, NHMA supports **HB 1696** and urges all House members to do the same. **The bill will go to the full House for a vote next Wednesday, February 10.** Please contact your representatives and urge them to **support** this important measure

Committee Nears Recommendation on Pole Values

Taking up an unresolved issue from last year, the Assessing Standards Board created a subcommittee a few months ago to study the issue of valuation of telephone poles for property tax purposes. That subcommittee has been meeting and is moving toward making a recommendation, which would become part of a House bill this year. [HB 1198](#) has been filed as a placeholder. The bill as drafted contains a valuation formula that is identical to the one contained in last year’s **HB 547**, which the House passed but the Senate rejected. The goal of the subcommittee is to come up with an appropriate amendment to **HB 1198**.

THE EDGE

City elections — partisan or non?

Last time we discussed the fact that New Hampshire towns do not have primary elections. Although they have the option to adopt a partisan ballot system and use party *caucuses*, none of them do.

But what about cities? They have party primaries, right?

No.

In New Hampshire’s 13 cities, elections are governed by the city charter, within limits set by state statute. Twelve of the cities have biennial elections in odd-numbered years; Lebanon has annual elections in March.

Probably because voters are used to voting in state and federal elections in November, most of New Hampshire’s cities have chosen to hold their municipal elections in November of odd-numbered years, when there is no state election. (They are prohibited by state law, RSA 44:11, from holding their municipal elections in conjunction with the state election.) Other than Lebanon, the one exception is Franklin, which has its biennial elections in October of odd-numbered years.

Continued on next page

Based on recent meetings, there is some cause for concern. The subcommittee has reached a tentative decision that pole values should be determined using an identified industry standard for the cost of a new pole, including installation, subject to depreciation over a set period, with a residual value at the end of the depreciation period. That may be an acceptable approach, but the details will be critical.

At a meeting this week, the subcommittee began by discussing whether regional variations in the cost of installation should be considered in determining pole cost. After some debate, the majority concluded that a single, statewide standard should be used. During that discussion, one member of the subcommittee, a state representative, stated that municipalities have viewed tax revenue from telephone poles as a “cash cow,” and announced, not for the first time, that he was not interested in hearing the views of municipal representatives.

Following that, the subcommittee discussed what would be an appropriate depreciation schedule. The Department of Revenue Administration’s public utility appraiser stated that according to his information, the *median age* of telephone poles in the state is approximately 36 or 37 years. (He gave a more precise number, but we did not write it down.) Based on that information, the subcommittee discussed a depreciation schedule in the range of 30 to 40 years. Although members did not agree on a number, they appeared to be leaning toward either 30 or 35 years.

If that leaves you scratching your head, you are not alone. We are not appraisal experts, but we know there is no conceivable connection between median age and useful life. As an analogy, according to the U.S. Census Bureau, the median age of human beings in New Hampshire is approximately 42 years. However, we are quite confident this does not translate to an average *life expectancy* of 42 years, or anything close to it. For the human population in a state, median age is largely a function of birth rates and retention of young people. More babies mean a lower median age (which is why [Utah has the lowest median age in the nation, by far](#)—yet it also has one of the longer life expectancies). Similarly, more new pole installations mean a lower median age for the pole population. The suggestion that median age has anything to do with *how long the poles last* is truly puzzling.

Although we believe the appraisal of poles should be left to experts, not legislators, we probably can live with a statutory formula, if it is reasonable and if it will get the phone companies to dismiss the hundreds of lawsuits they have filed. (By the way, it won’t.) However, a formula based on demonstrably flawed assumptions will be worthless, and we will oppose any legislation that incorporates such a formula. We encourage the subcommittee to work on a formula that can survive scrutiny.

THE EDGE *(Continued)*

Four cities—Keene, Laconia, Manchester, and Nashua—have primaries in advance of their November elections, and all of them are non-partisan. The primary is simply a qualifying round to narrow the field of candidates. There is a single ballot for all voters, and typically the top two vote getters for each office move on to the general election.

There is a common misperception that some cities—Manchester, in particular—have partisan elections. Presumably this is because the mayoral race usually features one Republican and one Democrat on the November ballot. But the candidates are not running, officially, as Republicans or Democrats, and they are not identified by party on the ballot. It is simply a function of voter patterns that if several people are competing in a primary, and their party affiliations are widely known, the top two vote getters will almost invariably include one from each of the two major parties; thus, the November election will usually pit a Republican against a Democrat, but the election is still officially non-partisan.



HB 1198 has been scheduled for a hearing on **Tuesday, February 16, at 10:00 a.m., in LOB Room 202**. Presumably, the subcommittee and the full Assessing Standards Board will be making recommendations on an amendment before then. Stay tuned.

Maintenance of Electronic Records

The House Municipal and County Government will hear testimony on Monday on a bill that could help municipalities deal with a nagging problem related to long-term maintenance of records. Current law (RSA 33-A:5-a) states that municipal records that are required to be retained for longer than ten years must be kept on paper, microfilm, or both. Given the number of records that must be retained permanently (all minutes of all public body meetings, for example), storing them on paper is unwieldy; and microfilm is all but obsolete.

HB 1395, an **NHMA policy bill**, would allow a third option: a portable document file (PDF). Records stored in PDF format take up no physical space, can be accessed from more than one device, and are less susceptible to damage. We are not certain that this is a perfect, permanent solution, but it is certainly more practical and realistic than the current law. The hearing is scheduled for **Monday, February 8, at 10:40 a.m., in LOB Room 301**.

State Aid Grant Funding

SB 367 proposes to fund state aid grants for public water system projects through the state capital budget rather than from general funds. The bill requires the Department of Environmental Services to hold annual public hearings on the projects recommended for funding and, based on testimony received, to include the list of priority projects in the biennial capital budget request. NHMA, of course, supports legislation that will honor the state's long-standing commitment to fund these projects, whether the money comes from general funds, the capital budget, or elsewhere. A hearing on **SB 367** is scheduled for **Wednesday, February 10 at 3:15 p.m. in State House Room 100** before the Senate Capital Budget Committee.

Committee Recommends Killing RTK Bill

The House Judiciary Committee voted 16-1 this week to support a motion of Inexpedient to Legislate on **HB 1611, NHMA's policy bill** that would have allowed public bodies and agencies to recover a portion of their labor costs for responding to excessive Right-to-Know Law requests. Needless to say, the vote was very disappointing. It was also frustrating, because many members of the committee acknowledged the need to do something about abusive Right-to-Know Law requests, but stated, for various reasons, that this bill was not the answer.

It is even more frustrating because this was a scaled-back version of a bill that the same committee approved, 14-4, last year. The committee's complete reversal leaves us struggling to know what to try next.

One fairly consistent comment we have heard is that legislators need more concrete evidence of the scale of the problem, and better information about the kinds of abuses that are occurring. It would be helpful if municipalities could begin to keep records about the number and

(RTK Bills — Continued from Page 4)

nature of the requests they receive, the amount of staff time involved in responding, and especially any examples of excessive or frivolous requests. We recognize the irony of asking municipalities to take on an additional recordkeeping burden in order to relieve an existing one, but it may prove worthwhile in the long run. Maybe. And if local officials have any ideas for a new approach to this problem, please let us know.

State of the State

On Thursday afternoon Governor Hassan gave her State of the State address to a joint session of the House and Senate, focusing her remarks on the strong economy, an innovative business environment, and the vibrancy of our communities. Relative to local governments, she thanked public safety officials for making New Hampshire one of the safest states in the nation and emphasized the need to support law enforcement by adequately funding the NH Police Standards and Training Council. She talked about the 10-year transportation plan (see related article below), advancing critical transportation goals, and fixing bridges and preserving roads, along with the need to ensure clean water for future generations by supporting the Senate proposal to create a trust fund from MtBE lawsuit proceeds. (See **SB 380** article in [Legislative Bulletin #6](#).) She also stressed the need to reauthorize Medicaid expansion through the NH Health Protection Program (see first article above) and to address the opioid crisis without delay. The full text of the Governor's State of the State address is available [here](#).

10-Year Transportation Plan

On Thursday the House Public Works Committee heard testimony on **HB 2016**, relative to the state 10-year transportation improvement program. A copy of the Governor's proposed plan, which is the basis for the bill and which includes a list of projects alphabetically by municipality, is available [here](#). Most of the testimony focused on the \$4 million earmarked for the capital corridor rail transit. The committee will hold work sessions over the next few weeks to decide what, if any, plan amendments to recommend.

Election Day Relief for Selectmen

While most New Hampshire voters are thinking about Tuesday's presidential primary, there is some good news about the state election in November. The Governor signed a new law last week that should make election day in November a bit easier for selectmen. **HB 331**, which will be codified at 659:21-a, allows a selectman who is absent during the state election to appoint a selectman *pro tem* to perform his or her duties.

Here is the background. Part 2, Article 32, of the New Hampshire Constitution states:

The meetings for the choice of governor, council and senators, shall be warned by warrant from the selectmen, and governed by a moderator, who shall, in the presence of the selectmen (whose duty it shall be to attend) in open meeting, receive the votes . . . and shall, . . . in presence of the said selectmen . . . sort and count the said votes . . .

(Election Day — Continued from Page 5)

No doubt there are some selectmen who are unaware of it, but this means they are required to be present at the polls during the state election in November, both when voting takes place and when the votes are being counted. (There are some who believe the selectmen's presence is also constitutionally required at the state primary in September, but that is not what Article 32 says. It says they must be present at "[t]he meetings *for the choice of* governor, council, and senators." Those officials are not *chosen* at the primary. *Candidates* are *nominated* at the primary, and the officials are chosen at the general election.)

This is a rather burdensome and archaic requirement—a holdover from the days when officials were actually elected "in open meeting," rather than at official-ballot elections lasting ten, twelve, or fourteen hours. True, the moderator is also required to be there, but the moderator has long been authorized to appoint a moderator *pro tem* and/or an assistant moderator to perform his or her duties. There are also provisions for *pro tem* clerks, supervisors, and inspectors of election.

The new RSA 658:21-a will now allow the same for selectmen. It states:

If a selectman is absent from or unable to perform his or her duties for all or any part of the day at any state election, the selectman is authorized to appoint a selectman *pro tem* to perform his or her duties. If one or more selectmen are absent or unable to perform their duties and have not appointed selectmen *pro tem*, or if a selectman *pro tem* is absent or unable to perform his or her duties for all or any part of the day, the moderator is authorized to appoint selectmen *pro tem* to perform their duties.

This is perhaps not a perfect solution, as it still leaves some questions unanswered: Do all of the selectmen (or their temporary replacements) have to be present? A quorum? Do they all need to be present at the same time, or can they take turns? But those questions already existed; and while the new law doesn't answer them, it at least eases the burden somewhat.

A more satisfying solution may be on the way. A proposed constitutional amendment, [CACR 23](#), would eliminate the requirement that the selectmen be present while the moderator receives the votes, but would preserve the requirement that they be there for the counting. **CACR 23** had a hearing before the House Election Law Committee this week, and NHMA testified in support. (No one spoke in opposition.) Like any constitutional amendment, however, it has a steep hill to climb: it must be approved by a three-fifths vote of the entire membership of the House and Senate (not just three-fifths of those present), and then receive a two-thirds majority approval by the state's voters.

While we wait to see how that turns out, selectmen should consider the *pro tem* option in November.

To view the weekly Legislative Bulletin from the NH School Boards Association, please click [here](#).

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

MONDAY, FEBRUARY 8

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. **HB 1304**, relative to town maintenance of a road designated as a highway to summer cottages.
- 10:20 a.m. **HB 1392-L**, relative to notice of land use violations and court costs in cases brought by a municipality.
- 10:40 a.m. **HB 1395**, relative to municipal electronic records. **NHMA Policy.**
- 11:00 a.m. **HB 1401**, relative to public libraries.
- 1:00 p.m. **HB 1180-L**, relative to the authority of towns to issue bonds for the expansion of Internet service.
- 1:20 p.m. **HB 1219-FN-L**, relative to the repurchase of tax-deeded property by the former owner and the costs therefor.
- 1:40 p.m. **HB 1336-FN-L**, relative to interest on abatements of taxes.
- 2:00 p.m. **HB 1359**, relative to the tax credit for service-connected disability.

THURSDAY, FEBRUARY 11

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 307, LOB

- 1:00 p.m. **HB 1523**, relative to government construction contracts.
- 1:45 p.m. **HB 1341**, relative to employee payments to unions.
- 2:30 p.m. **HB 1322**, relative to reports to the public employee labor relations board.

FRIDAY, FEBRUARY 12

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

- 10:00 a.m. **HB 1492**, regarding individual privacy when law enforcement agencies use body-worn cameras.
- 10:45 a.m. **HB 1546-FN**, permitting the audio recording of a public servant performing a public function.

SCIENCE, TECHNOLOGY AND ENERGY, Rooms 302 - 304, LOB

- 10:00 a.m. **HB 1116**, relative to net metering.
- 1:00 p.m. **HB 1275**, relative to net energy metering capacity.

TUESDAY, FEBRUARY 16

WAYS AND MEANS, Room 202, LOB

- 10:00 a.m. **HB 1198-FN-L**, relative to the valuation of poles and conduits owned by telephone utilities.

FRIDAY, FEBRUARY 19

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

- 11:00 a.m. **HB 1287**, repealing a provision of the harassment statute.

SENATE CALENDAR

WEDNESDAY, FEBRUARY 10

CAPITAL BUDGET, Room 100, SH

3:15 p.m. **SB 367-FN**, including state water pollution control and public water system grants proposed by the department of environmental services in the capital budget.

ENERGY AND NATURAL RESOURCES, Room 100, SH

9:30 a.m. **SB 492-FN**, relative to expenditures from the energy efficiency fund.

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

10:00 a.m. **SB 546-FN**, relative to petitions for verification of checklists.

NEW SENATE BILLS

SB 524, removes a reference in the law that permitted a portion of state procurement card rebates to be used to reduce the unfunded liability of the New Hampshire retirement system. Sen. Stiles of Hampton; **ED&A-S**.

SB 527, appropriates funds from the general fund to the police standards and training council to replace police standards and training council training funds, repeals the police standards and training council training fund, and appropriates funds from the highway fund to the department of safety for the purchase of police cruisers. Sen. D'Allesandro of Manchester; **F-S**.

SB 531, extends the New Hampshire health protection program. Sen. Pierce of Hanover; **HHS&EA**.

SB 538, extends the time period within which a hearing must be held regarding a child taken into protective custody under RSA 169-C and requires the police to notify both parents and the department of health and human services of the hearing. Sen. Boutin of Hooksett; **HHS&EA**.

SB 546, lengthens the time period during which voters may petition for verification of checklists and requires evidence that there are persons listed on the checklist who are not qualified to vote before the ballot law commission may conduct an investigation of the checklist. Sen. Pierce of Hanover; **PMA**.

SB 550, establishes a maximum weight requirement for a combination of truck-tractor and dump trailer. Sen. Feltes of Concord; **TRANS-S**.

SB 551, enables the lottery commission to license one casino providing video lottery machines and table gaming at Rockingham Park in Salem. Sen. D'Allesandro of Manchester; **W&M-S**.

HOUSE FLOOR ACTION

Thursday, February 4, 2016

HB 1123, relative to a property tax exemption for certain stand-by generators. **Inexpedient to Legislate**.

HB 1214, allowing towns and cities to authorize an additional surcharge on hotel occupancy under the meals and rooms tax. **Inexpedient to Legislate**.

(House Floor Action — Continued from Page 8)

HB 1221, relative to excluding certain one-time expenditures from the default budget in official ballot municipalities. **Inexpedient to Legislate.**

HB 1230, relative to information on dog licenses. **Inexpedient to Legislate.**

HB 1243-FN-LOCAL, relative to storm water or sewage penalties. **Passed with Amendment. Referred to JUD-H.**

HB 1251-FN-A, requiring the department of transportation to upgrade a portion of road in the town of Pittsfield. **Inexpedient to Legislate.**

HB 1350, relative to allodial rights and violations of the oath of office. **Inexpedient to Legislate.**

HB 1375, relative to charter commissions for budgets in official ballot jurisdictions. **Passed.**

HB 1389, prohibiting a town meeting from materially changing a petitioned warrant article in a town that has adopted the official ballot referendum form of meeting. **Inexpedient to Legislate.**

HB 1402, prohibiting the state and political subdivisions from acquiring military-equipped vehicles or equipment which are not readily available in an open national commercial market. **Tabled.**

HB 1430-FN, relative to registration of compact utility tractors. **Passed with Amendment. Referred to F-H.**

HB 1567-FN-A, authorizing friends of animal number plates. **Inexpedient to Legislate.**

HB 1576-FN-LOCAL, repealing the licensure of dogs. **Inexpedient to Legislate.**

HB 1583-FN, allowing for voluntary donations to veterans' organizations through a check-off box on driver's license applications and automobile registration forms. **Referred to Interim Study.**

HB 1621-FN-LOCAL, relative to sanctuary cities. **Tabled.**

HB 1655-FN, relative to registration fees for agricultural/industrial utility vehicles. **Passed with Amendment. Referred to W&M-H.**

HB 1666-FN, relative to certain definitions in the motor vehicles law. **Inexpedient to Legislate.**

HB 1697-FN, relative to the operation and insurance of transportation network companies. **Passed with Amendment. Referred to COM-H.**

SENATE FLOOR ACTION

Thursday, February 4, 2016

SB 121-FN-LOCAL, relative to definitions used for purposes of current use taxation. **Passed with Amendment.**

(Senate Floor Action — Continued from Page 9)

SB 319, relative to survivor benefits for families of police officers and firefighters killed in the line of duty. **Passed with Amendment.**

SB 331, relative to fulfilling the requirement for a notarized signature electronically. **Passed.**

SB 333, relative to net energy metering. **Passed with Amendment.**

SB 377, relative to emission levels of municipal waste combustion units. **Passed.**

SB 380, establishing the drinking water and groundwater trust fund and establishing the New Hampshire drinking water and groundwater advisory commission. **Passed with Amendment.**

SB 412, establishing a minimum wage. **Inexpedient to Legislate.**

HB 427, relative to the definition of the New Hampshire fire code. **Passed with Amendment.**

Upcoming Events for NHMA Members

NHMA Workshop

February 20, 2016 Town & School Moderators (Traditional Meeting) [click [here](#) to register]

For more information please access our website: www.nhmunicipal.org and scroll down on the left to CALENDAR OF EVENTS, *View the Full Calendar.*

NHMA Webinar

Pensionable Wages: What's In, What's Out?

Event Date: Wednesday, February 17, 2016

Time: 12:00 PM - 1:00 PM

Contact Phone: 603.224.7447

Join NHMA's Government Finance Advisor Barbara Reid as she hosts officials from the New Hampshire Retirement System (NHRS) in a discussion on "earnable compensation" under RSA 100-A.

Mark Cavanaugh, NHRS Associate Counsel & Compliance Officer and Tamre McCrea, NHRS Audit Team Leader will clarify what is, and is not, considered pensionable wages under RSA 100-A:1, XVII since the 2008 statutory change removing "other compensation" from the definition, including the impact on compensation such as stipends, on-call pay, stand-by pay, holiday pay, other compensation above "base pay", and much more!

This webinar is of interest to human resource, finance and payroll officials who should find it extremely helpful to insure compliance with NHRS laws and regulations.

REGISTER HERE [space is limited]