

LEGISLATIVE BULLETIN

Local Option for Additional Veterans' Tax Credit

As we reported in last week's *Legislative Bulletin*, an amendment to [HB 430](#) was needed to ensure that the provision for expanding the veteran's credit to all persons honorably discharged with 90 days or more of service (as opposed to having only veterans who served during the specific war times defined in statute qualify for the credit) was enabling and not mandatory. An amendment has been drafted which does that, by creating a new section in RSA 72 called the "Additional Veterans' Tax Credit." It allows a municipality to adopt this provision, if it so chooses, under the same procedure as other local option exemptions and credits, which is contained in RSA 72:27-a. If a municipality votes to extend the credit to additional veterans who do not qualify under the current law, the amount of the credit will be the same as the amount of the standard or optional credit in effect in the municipality (\$50 for the standard credit and \$51- \$500 for the optional credit).

This amendment addresses the concerns we expressed last week, and we expect it will be considered by the Senate Public and Municipal Affairs Committee soon, possibly during its committee meeting next Wednesday, April 6.

RGGI Bill Increases Funds for Municipalities

The House Science, Technology and Energy Committee has scheduled a hearing on [SB 492](#), relative to expenditures from the energy efficiency fund, for **Tuesday, April 5, at 10:00 a.m., in LOB Room 304**. NHMA strongly supports this bill, which increases to \$5 million (from \$2 million) the amount that can be distributed to municipalities and school districts from the sale of carbon allowances under the regional greenhouse gas initiative (RGGI). Those funds are used for energy efficiency projects, which reduce municipal costs and thus save money for taxpayers. The bill would also distribute additional funds to the low-income core energy efficiency program, which provides weatherization for low-income homeowners.

SB 492 is identical to a bill that the Senate passed last year, but which died in a committee of conference. The objection last year was that the

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bill would eliminate the rebates to residential ratepayers that exist under current law. However, those rebates (about \$1.50 a month) are insignificant compared to the savings that would result from **SB 492**, not only for low-income customers, but for all residential customers. Municipal energy efficiency projects, of course, help to reduce property taxes for everyone. Further, by increasing energy efficiency, these programs reduce demand for energy and thus help to keep costs down for all customers. According to information provided last year by the Office of the Consumer Advocate (which is charged with representing the interests of residential ratepayers), between 2002 and 2015 the energy efficiency programs saved over 10 billion electric kilowatt-hours and 16 million natural gas MMBtus, translating to customer savings of over \$1.6 billion.

SB 492 squeaked through the Senate on a 13-11 vote, and it will definitely have opposition in the House. Please let [committee members](#) and your own representatives know how important this bill is to municipalities and their taxpayers. ***After the hearing on Tuesday morning, the committee is planning to discuss and presumably vote on the bill at 1:00 p.m. the same day, so you need to get your comments to the committee by Tuesday morning.***

House Bill Provides Nuisance Equity

As the legislative calendar remains relatively light, we take another opportunity to catch you up on recent developments. The House passed a bill several weeks ago that is intended to protect the right of citizens to engage in annoying pranks.

HB 1381 [as introduced](#) would have repealed the prohibition on the sale or use of smoke bombs under RSA 644:16-b. That proposal was not controversial in itself, but it raised concerns about disparate treatment for other offensive but harmless products.

At the hearing before the House Criminal Justice and Public Safety Committee, supporters of stink bombs—currently outlawed under a companion statute, RSA 644:16-a—demanded equal treatment. A representative from the Associated Retailers of Malodorous Accessories (AROMA) summarized the argument succinctly: “Who says stink is worse than smoke?” After a lengthy hearing and debate, the committee recommended an amendment that would repeal the stink bomb ban as well.

Debate on the House floor was passionate. Opponents of the bill demonstrated their opinions with buttons saying, “Thank you for not stinking.” A leading opponent of the repeal argued that passing the bill would destroy the New Hampshire advantage by making the state as smoky and smelly as places like Massachusetts and even New York.

THE EDGE

In every legislative session there are a number of bills authorizing cities, or town, or cities *and* towns, to adopt ordinances on one subject or another. We are frequently asked whether it’s necessary to have separate enabling legislation for cities and for towns.

The answer is that separate legislation is not necessary, provided it is done correctly.

The powers granted to municipalities are sprinkled throughout state statutes, but general ordinance authority for towns is contained in RSA chapter 31; for cities it is in RSA chapter 47. Because towns and cities are governed by separate statutes, it may seem that enabling authority must always be granted separately.

However, there is a bridge over the gulf. RSA 44:2 (in a chapter that applies to cities and wards) states, “All provisions of statutes . . . relating to towns, shall be understood to apply to cities; and all provisions relating to the selectmen and town clerks of towns shall be construed to apply to the mayor and aldermen and clerks of cities, respectively, unless a different intention applies.”

Further, RSA 47:1 states, “All the powers vested by law in towns, or in the

[Continued on next page](#)

Several supporters of the bill emphasized that their votes should be interpreted not as support for stink bombs, but as protecting freedom of expression. They pointed out that “stink is in the nose of the inhaler,” and that “if you don’t like it, you don’t have to breathe.”

Ultimately, the House passed the amended bill on a 188-156 roll call vote. Afterward, one representative acknowledged his ambivalence, but said that in the end, “I decided to hold my nose and vote yes.”

The bill has gone to the Senate, but as of today, April 1, a hearing has not yet been scheduled.

HB 1428 Senate Hearing

On **Tuesday, April 5, at 1:45 p.m., in State House Room 103**, the Senate Finance Committee will hear testimony on [HB 1428](#), an **NHMA policy bill** that funds eight of the twenty remaining projects on the Department of Environmental Services’ “delayed and deferred” list. These projects (three in Littleton, two in Portsmouth, and one each in Exeter, Hanover and Rochester) received local approval prior to the moratorium cutoff date of December 2008, understanding that state aid would be provided to assist in financing the debt on these projects. As the bill passed the House, funding for these eight projects will come from excess money in the clean water revolving loan administrative fee account. Affected municipalities are encouraged to contact their senators, representatives and [committee members](#) to urge support on **HB 1428**.

Current Use Bill Expands Exemption

On **Tuesday, April 5, at 10:00 a.m., in LOB Room 303**, the House Environment and Agriculture Committee will hear testimony on [SB 121](#), which proposes to add an exemption to the assessment of the land use change tax. Under current law RSA 79-A:7, IV, land is considered changed and the land use change tax is due when “topsoil, gravel or minerals are excavated or dug from the site,” with two exceptions:

- Removing topsoil in the process of harvesting sod, and
- Removing gravel and other materials for the purpose of constructing and maintaining roads for agricultural and forestry purposes within the current use property of the owner. However, the *sale* of such excavated materials constitutes a change in use of the property.

THE EDGE *(Continued)*

inhabitants thereof, shall be exercised by the city councils by concurrent vote, each board having a negative on the other.”

Finally, RSA 21:5 states, “The word ‘town’ shall extend and be applied to any place incorporated . . . and shall mean that city, town, ward, or place in which the subject-matter referred to is situate, or in which the persons referred to are resident, unless from the context, a different intention is manifest.”

These sections (along with court decisions interpreting them, in case there is any doubt) make it clear that any power granted to towns is automatically granted to cities. (In a later issue we will discuss what is meant by the reference in RSA 44:2 to “city councils” in the plural, and the difference between a city council and a board of aldermen.) However, there is no reciprocal statute giving towns the same powers that cities have. A House bill introduced in 2015 would have done so, but the bill was killed.

Thus, if the legislature wants to grant authority to all municipalities, it can do so by amending RSA 31 to grant the authority to towns, and the new authority will automatically apply to cities as well; but an amendment to RSA 47 that gives authority to cities will not automatically apply to towns.



SB 121 adds a new exception, stating that removal of topsoil, gravel or minerals “***which does not change the underlying, qualifying use of the land***” will not be considered a change in use, and therefore no land use change tax will be due. It is unclear exactly what the new phrase means, and we fear it could be interpreted broadly to allow excavation activity on land in current use beyond the current exception for the landowners’ personal use.

We understand the bill was intended to deal with a very specific case that was addressed by the Board of Tax and Land Appeals involving removal of quarry rubble. However, as worded, the bill could have unintended consequences in the assessment of the land use change tax. Municipal officials concerned about the impact of **SB 121** are encouraged to contact [members of the committee](#).

Senate Passes Medicaid Expansion

To no one’s surprise, and with shorter debate (less than three hours!) than might have been anticipated, the Senate this week passed **HB 1696**, reauthorizing New Hampshire’s expanded Medicaid program, the New Hampshire Health Protection Plan, for another two years.

A combined Senate Finance and Health and Human Services Committee heard the bill last week and voted 6-4 on Monday of this week to recommend the bill as passed by the House, without amendment. The bill made an expedited trip to the Senate floor on Thursday, where it passed, 16-8.

Several floor amendments were defeated by large margins before the final vote on the bill. Much of the debate centered on the bill’s work requirement and the recognition that the federal government is unlikely to permit the requirement. The bill contains a severability provision that allows it to continue in effect even if the work requirement is not allowed.

Opponents argued that the work requirement was mere window dressing, because everyone knows it will be rejected. Supporters acknowledged that likelihood, but emphasized the bill’s many benefits and urged their colleagues not to “let the perfect be the enemy of the good.” That argument prevailed.

Among those benefits, as we have mentioned before, are (1) the reductions in local welfare costs for prescription drugs, (2) the ability of the program’s beneficiaries to return to work after receiving treatment for their health issues, thus reducing or eliminating their need to rely on local welfare programs; and (3) the treatment for substance abuse that is available under the program. All of these are of significant benefit to municipalities.

The bill now goes to the Governor, who has made it clear that she will sign it as soon as it reaches her desk.

Pole Valuation Hearing April 12

We wrote last week that we anticipated a Senate committee hearing next week on **HB 1198**, relative to valuation of telephone poles and conduits. The hearing will not be next week; we have been told it will be scheduled for the morning of **Tuesday, April 12** instead. Notice of the hearing has not been posted yet, so that could still change; but anyone who is interested in the issue should tentatively plan on an April 12 hearing.

Legislative Policy Ideas Needed

NHMA's legislative policy process for the 2017-18 biennium will kick off with the organizational meeting of policy committees on Friday, April 8. The committees have been formed, and they are eager to begin their work. What we really need are *more legislative policy proposals*.

All of our legislative policies come from local officials, so we need to hear from you. Surely you have an idea for making local government more efficient or effective. Maybe there is a law that needs to be clarified, or even repealed. Maybe there are innovative practices that cities and towns could pursue, if only they had legislative authority. Maybe municipalities need to respond to a specific need, but they can't do it without enabling legislation. By submitting a legislative policy proposal, you can begin the process of addressing those needs.

Any elected or appointed local official from an NHMA member municipality can submit a policy proposal. To do so, please complete a [legislative policy proposal form](#), available on our website, and submit it by **April 22, 2016**. If you want to talk about a policy idea, or if you have any questions, please contact the Government Affairs staff.

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

TUESDAY, APRIL 5

COMMERCE AND CONSUMER AFFAIRS, Room 302, LOB

10:30 a.m. **SB 411**, relative to the merger of lots that are mortgaged.

ELECTION LAW, Room 308, LOB

10:00 a.m. **SB 353**, relative to names on ballots.

10:10 a.m. **SB 418**, relative to obtaining a ballot to vote and adding National Guard members to the absentee voting laws.

10:35 a.m. **SB 4**, (New Title) relative to eligibility to vote and relative to availability of voter information.

10:55 a.m. **SB 509-FN**, relative to voter registration forms and relative to voter identity verification.

11:40 a.m. **SB 546-FN**, relative to petitions for verification of checklists.

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

- 10:00 a.m. **SB 121-FN-L**, (New Title) relative to exceptions from the land use change tax for removal of certain materials.
10:30 a.m. **SB 345**, relative to the definition of agritourism.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 307, LOB

- 1:00 p.m. **SB 416**, relative to flexible working arrangements in employment.

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

- 1:30 p.m. **SB 374**, (New Title) requiring the department of environmental services to update coastal flooding trends.

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

- 10:00 a.m. **SB 492-FN**, relative to expenditures from the energy efficiency fund.
2:00 p.m. **SB 381**, relative to the combustion of the wood component of construction and demolition debris.

TRANSPORTATION, Room 203, LOB

- 1:00 p.m. **SB 362**, requiring notice to planning boards of placement of signs on scenic byways.

WAYS AND MEANS, Room 202, LOB

- 11:00 a.m. **SB 494-FN-A**, (New Title) limiting an exemption from the road toll.

THURSDAY, APRIL 7

FINANCE, Rooms 210-211, LOB

- 11:15 a.m. **SB 527-FN-A**, making an appropriation to the police standards and training council, repealing the police standards and training council training fund, making an appropriation to the department of safety for the purchase of state police cruisers.

SENATE CALENDAR

TUESDAY, APRIL 5

FINANCE, Room 103, SH

- 1:45 p.m. **HB 1428-FN-A-L**, establishing the clean water state revolving fund non-program fund account in the department of environmental services for the purpose of funding eligible and completed wastewater projects under the state aid grant program. **NHMA Policy.**

WEDNESDAY, APRIL 6

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

- 9:00 a.m. **HB 1114**, relative to the number of inspectors of election.
9:15 a.m. **HB 1220**, relative to disqualification of election officers.
9:30 a.m. **HB 1223**, relative to changes of address on election day.
9:45 a.m. **HB 1377**, relative to receipt of absentee ballots.
10:00 a.m. **HB 1181**, relative to designating an alternate cemetery trustee.
10:15 a.m. **HB 1202**, relative to applications submitted to a planning board.
10:30 a.m. **HB 1482**, relative to the Interstate Voter Registration Crosscheck Program.

THURSDAY, APRIL 7

JUDICIARY, Room 100, SH

12:15 p.m. **HB 602-FN**, relative to the use of drones.

12:30 p.m. **HB 636-FN**, relative to forfeiture of property.

SENATE FLOOR ACTION

Thursday, March 31, 2016

HB 110, relative to placement of political advertising. **Inexpedient to Legislate.**

HB 183, relative to voter registration forms. **Referred to Interim Study.**

HB 295, correcting a reference in the housing law to municipal agreements regarding the construction of parking facilities. **Passed.**

HB 1418-L, relative to the minutes of nonpublic sessions of public bodies. **Passed.**

HB 1419, relative to voting records in nonpublic sessions of public bodies. **Passed.**

HB 1696, relative to expanded Medicaid. **Passed.**

Upcoming Events for NHMA Members

NHMA Workshops

Beginning April 9, 2016—Local Officials Workshops—Various Locations

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

Contact us by phone at 1-800-852-3358 x3350 or email us at NHMAregistrations@nhmunicipal.org

NHMA Webinar

April 20, 2016 Right-to-Know or Right to Privacy?

Time: 12:00—1:00 p.m.

Click [here](#) to register by noon on April 19, 2016

Under the Right-to-Know Law, when the release of a file would constitute an invasion of privacy, it is exempt from disclosure. The meaning and application of this exemption often causes confusion and raises questions.

Join Legal Services Staff Attorney Margaret Byrnes and Attorney Matthew Serge of Drummond Woodsum for a look at the case law interpreting this exemption and some real life examples to help you better understand when the right to privacy sufficiently outweighs the public's interest in disclosure.