

LEGISLATIVE BULLETIN

Electronic Voter Check-In Hits a Bump

Bulletin #18, 2016 Session
April 29, 2016

As we discussed in [last week's Bulletin](#), there is an effort under way to authorize a pilot project in three municipalities this fall for an electronic voter check-in system. The proposal, contained in an [amendment](#) to **HB 1534**, had a hearing this week in the Senate Public and Municipal Affairs Committee, where it received strong support from many municipal clerks, other local officials, and legislators from both parties (as well as NHMA).

As Sen. David Boutin said in introducing the amendment, electronic check-in “will reduce the lines, will reduce fraud, and will reduce the time election workers are there after the polls close.” In supporting the proposal, clerks from Manchester, Nashua, and Laconia talked about the long lines at the presidential primary in February and explained that they were still processing information from the primary eleven weeks later. The electronic check-in system would, as Sen. Boutin said, dramatically reduce those lines and enable election officials to process election and registration information almost instantly.

Sen. Boutin also noted that New Hampshire is hardly a pioneer in this area. Electronic check-in systems are used in 39 states. The system that has been recommended for the pilot project is in use in at least 15 states, and according to the Manchester city clerk, it “has never once failed.”

The secretary of state’s office, however, appeared with last-minute opposition to the proposal. The secretary testified that he worried about hacking and said that he had consulted with “the top computer scientists in the world,” who told him “there’s not an election machine that can’t be hacked.” He recalled that a municipality had purchased some technology in the late 1980’s that didn’t pan out and said he had been in touch with the computer experts who had helped him in that situation. He suggested that an electronic check-in system might be secure “in 20 years,” but not now.

It may be true that an electronic check-in system can be hacked (as can, no doubt, the computer systems that control nuclear power plants and world financial markets), but there is no evidence that it has ever happened. And

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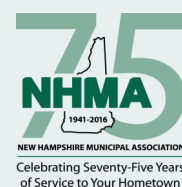
GOVERNMENT AFFAIRS CONTACT INFORMATION

Judy A. Silva, Executive Director

Cordell A. Johnston, Government Affairs Counsel

Barbara T. Reid, Government Finance Advisor

Timothy W. Fortier, Communications & Member Services Coordinator



25 Triangle Park Drive
Concord NH 03301
Tel: 603.224.7447
Fax: 603.415.3090
governmentaffairs@nhmunicipal.org
Website: www.nhmunicipal.org

what would be the purpose of hacking the system? (It needs to be understood that this is an electronic *check-in* system, not an electronic *voting* system. It has nothing to do with casting or counting ballots.) It is hard to imagine any mischief that would be worth a hacker's time and that would not be discovered and addressed in the check-in process, especially given that there would still be a paper checklist system as backup.

Clerks who spoke in support of the bill acknowledged that their reputations would be on the line in implementing it, and they would not undertake such a project without both sufficient assurances of the system's soundness and appropriate safeguards in the event of problems. City and town clerks and moderators are on the front line of the voting process in New Hampshire; it's a job they take seriously and with a clear understanding of the responsibilities. That is why they want to pilot this process that would reduce lines and the opportunity for voter fraud.

Despite the secretary of state's objections, support for the pilot project appears to remain strong among committee members. Nevertheless, it would be helpful to keep reminding committee members and your own senator (and representatives, because this issue will come back to the House) how much time and trouble could be saved with this system, and that waiting 20 years is not a serious solution. You can also point out that this is *merely a pilot project*, the whole point of which is to test the system for reliability and to identify any potential problems. The committee is likely to vote on the bill **next Wednesday, May 4.**

Senate Passes Pole Valuation Bill

To no one's surprise, the Senate yesterday passed **HB 1198**, the bill establishing a valuation formula for telephone poles and conduits, by a vote of 20-3. There was an effort to table the bill in order to seek an advisory opinion from the New Hampshire Supreme Court on its constitutionality, but that motion failed on a voice vote.

We understand the House is likely to concur with the Senate amendment and avoid a committee of conference. If so, the bill will be headed soon to the governor. As we have said before, the bill is better than it might have been (recall that this started as an effort to exempt the poles entirely), but it still has problems and sets a bad precedent.

The apparent constitutional flaw in the bill—treating telephone poles differently from identical electric poles for tax purposes—has been consistently dismissed by legislators, but the issue is not likely to go away. There already is talk of a constitutional challenge, so whether the bill will actually bring “finality and stability,” as some have insisted, remains to be seen.

THE EDGE

Chapter Laws and RSAs

What is the difference between a chapter law and an RSA? Well, let's start at the beginning.

Every new law begins life as a bill, with either a House or Senate bill number—for example, House Bill 120 or Senate Bill 39. If the bill makes it through the legislative process and is signed by the governor, it is now a law, and it is assigned a chapter number. Chapter numbers are assigned in the order bills are signed into law, and they start over at Chapter 1 every year. For example, when SB 146 was signed into law this year, it became Chapter 6.

From that point on, the new law is referred to as a “chapter law,” or sometimes a “session law.” On the legislature's home page is a link titled 2016 Chaptered Final Version. This page shows all of the new laws, by chapter number, that have been enacted so far in 2016.

A chapter law is typically referred to by its year and chapter number—for example, “2016 Laws Chapter 6,” or “Chapter 6 of the Laws of 2016.”

There needs to be a way to keep track of all the chapter laws that have been enacted over the centuries, so they are compiled into a code, classified by subject matter. The first code of New Hampshire laws, called the Revised Statutes, was published in 1842. New codes have been published every few decades since then.

(continued on next page)

Winding Down?

There are five weeks left in the legislative session. Almost all hearings have been held, and committees in both houses are finishing their work by voting on their remaining bills. Next Thursday, May 5, is the last day for committees to report on their bills. The following Thursday, May 12, is the last day for the House to vote on Senate bills and for the Senate to vote on House bills. Committees of conference will meet during the two weeks after that, with a deadline of May 26 to sign off on committee of conference reports and a deadline of June 2 for both chambers to vote on those reports.

In theory, the session might be seen as winding down, but in some respects it is just getting geared up. In the past week, at least four new issues of significant interest to municipalities have popped up as non-germane, or somewhat-germane, amendments, including the electronic check-in proposal discussed above. (We may write about the second issue next week. The third—involuntary lot mergers—is sufficiently technical and narrow that we are not going to try to explain it here, and the fourth—registration of out-of-state semi-trailers—seems unlikely to go anywhere.)

There will undoubtedly be other interesting twists, as each chamber tries to revive bills that the other killed, and every amendment needs to be examined for surprises. The heavy lifting may be over, but there is still plenty of action ahead.

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

SENATE CALENDAR

WEDNESDAY, MAY 4

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

9:00 a.m. **HB 1503**, relative to distributing campaign materials at the polling place.

SENATE FLOOR ACTION

Thursday, April 28, 2016

HB 430, (New Title) relative to allowing towns and cities to adopt a property tax credit which extends the current veterans' property tax credit to all honorably discharged veterans. **Passed with Amendment.**

THE EDGE *(Continued)*

The most recent codification was in 1955, and it is called the Revised Statutes Annotated. It is "annotated" because it contains annotations to court decisions and other authorities that cite the statutes. To be accurate about it, there is no such thing as "an RSA." The abbreviation refers to the entire code.

The code is divided into titles and then further divided into chapters, and statutes are generally referred to by their RSA chapter number, such as RSA chapter 91-A (the Right-to-Know Law). When a chapter law is enacted (see above), it is placed into the appropriate RSA chapter (or chapters) —but the *chapter law* number has nothing to do with the *RSA chapter* into which it is placed. For example, this year's Chapter 6 makes changes to the zoning laws, so it will be codified in the statute on zoning power, RSA chapter 674.

There's more, but we're out of space. Next week we will discuss the chapter laws that never make into "the RSAs."



(Senate Floor Action — Continued from Page 3)

HB 602-FN, relative to the use of drones. **Passed with Amendments; referred to F-S.**

HB 636-FN, relative to forfeiture of property. **Divided and passed in part; referred to F-S.**

HB 659-FN-L, relative to eligibility for an absentee ballot. **Passed.**

HB 1141, defining “agritourism.” **Referred to Interim Study.**

HB 1198-FN-L, relative to the valuation of poles and conduits owned by telephone utilities. **Passed with Amendment.**

HB 1349-FN, relative to the location of the Merrimack county superior court. **Passed.**

HB 1377, relative to receipt of absentee ballots. **Passed with Amendment.**

HB 1626-FN, relative to drug take-back programs. **Inexpedient to Legislate.**

HB 1633-FN, relative to the use of the Family and Medical Leave Act time as it applies to workers’ compensation. **Referred to Interim Study.**

HB 1654-FN, relative to flying a drone above a correctional facility. **Inexpedient to Legislate.**

HB 1660-FN-L, (Second New Title) relative to appraisals of residential property, a residential owner option in a partial taking, and relocation, temporary housing, and legal expenses in eminent domain proceedings for gas pipelines; relative to intervention by the site evaluation committee in such proceedings; and relative to expenditures from the energy efficiency fund. **Passed with Amendments.**

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

Upcoming Events for NHMA Members

NHMA Workshops

May and June, 2016—Local Officials Workshops—Various Locations

May 4, 2016 [Right-to-Know Law](#), Meredith Community Center at 5:30 p.m.

June 10, 2016 [2016 Avoiding the Road to Liability](#), Concord, NH at 9:00 a.m.

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

May 11, 2016 Right-to-Know: Public Records

Time: 12:00—1:00 p.m.

Click [here](#) to register by noon on May 10, 2016

Spend an hour with Legal Services Counsel Stephen Buckley and Staff Attorney Margaret Byrnes, who will look at a variety of selected issues related to governmental records. To start, learn how to distinguish between non-public records and public records. Then, understand a municipality's actual legal obligations when responding to a records request. Next, take a closer look at three specific exemptions in RSA 91-A:5: "confidential, commercial, and financial information," "notes or materials made for personal use," and "preliminary drafts, notes, and memoranda and other documents not in their final form and not disclosed, circulated, or available to a quorum or a majority of the members of a public body." Finally, this webinar will also cover some pointers regarding meeting minutes, particularly focusing on issues related to non-public session minutes. As always, bring your questions!