

LEGISLATIVE BULLETIN

Town Meeting Season Gets Closer to the End

Bulletin 17 - 2017 Session
April 21, 2017

On Thursday the House and Senate requested and held a committee of conference on [HB 329](#), the bill that establishes a process to resolve uncertainties resulting from the questions about postponed town meeting voting day. The Senate recessed while the committee of conference met, clearly following a prearranged plan under which the conferees agreed to two small changes to the previously amended bill.

First, they clarified that the governing body was to hold a properly noticed public **hearing**, not just a public meeting, on the question of ratifying the votes taken at a postponed voting session. This was an important clarification, given that a public meeting and a public hearing are, of course, two very different things. The conference committee also specified that the notice requirement for the public hearing “shall mean 72 hours advance notice of the hearing printed in a newspaper of general circulation in the town or district and on the public body's Internet website, if one exists.”

The Senate then approved the conference committee language by a voice vote (which sounded unanimous), and the House approved the revised language by a [294-42](#) roll call vote, after being urged to do so by a representative who noted that the ultimate authority for running a town and making its decisions rests with the residents of those towns who vote for their local officials.

The bill now makes its way through the remainder of the process to the Governor’s desk for signature. We hope it will move swiftly—and smoothly—from here, and we thank legislators for creating a workable process that allows cities and towns to move forward with implementing their town meeting votes.

Local and Logistical Concerns About Domicile Bill

The House Election Law Committee held an approximately six-hour hearing this week on [SB 3](#), the bill that would establish new requirements to prove domicile when registering to vote. The committee heard from dozens of speakers on both sides of the issue. Supporters generally stated that the

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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
governmentaffairs@nhmunicipal.org
Website: www.nhmunicipal.org

state's current domicile requirements are too lax and essentially allow anyone to vote, while many opponents claimed that the bill would discourage qualified voters from registering because of its burdensome requirements.

A number of local officials also spoke against the bill because of the new obligations it would impose on election officials and because of concerns that the complicated registration form would lead to delays and confusion at the polls. While we share those concerns, we have identified additional problems in the past week, as we have struggled to understand how the bill will actually work. Unfortunately, it seems that neither side has focused very clearly on the details of the bill.

We believe there are serious problems with the bill's mechanics, to the point that it would be almost impossible to implement. This is most likely because the bill went through the Senate very quickly and was completely rewritten twice in the process. While that is understandable, the problems are now becoming clear, and it would be irresponsible for the House to let the bill go as it is.

Under the bill, a standard voter registration form would be used to register at most times during the year (as it is under current law). However, a different form, the state general election day registration form—currently used only when registering at the polls on the day of a state general election—would be used not only at the state general election, but also when anyone registers within 30 days *before any election* (town or city election, state primary, state general election, presidential primary); but the *standard* form would still be used to register *on the day* of any election *other* than the state general election.

So . . . in a presidential election year, the standard registration form would be used until 30 days before the presidential primary, then the municipality would switch to the general election day registration form. On the day of the presidential primary, it would switch back to the standard form-- unless the presidential primary occurs 30 days or less before the town meeting, in which case the town would continue to use the general election day registration form until town meeting day, when it would switch back to the standard registration form. (If the town meeting occurs more than 30 days after the presidential primary, there would be another round of switches.) The town would switch again to the general election day registration form 30 days before the state primary, and on the state primary day it would switch back to the standard election form, which it would use until 30 days before the general election, when it would again switch to the state general election day form. The day *after* the general election, it would switch back to the standard registration form. Of course, the calendar would be different in a city.

Things get even more complicated when we consider the bill's requirements for proving domicile. Anyone registering "in advance of an election"—whether one day, 30 days, or 100 days—must either present one of several listed documents (driver's license, vehicle registration, etc.) or present "other reasonable documentation" to establish domicile. Someone who does not have "reasonable documentation" would not be able to register—he or she would have to return with the documentation, or register at the polls on election day.

A person registering on election day—*any* election day—who does not have the necessary documentation could initial a statement saying that he or she will mail the documentation to the clerk within 10 days. This statement appears only on the general election day registration form, not on the standard registration form. Thus, the bill allows someone registering on *any election day* to establish domicile by initialing a statement on the general election day registration form, even though

that form *would not be used* to register at elections other than the general election. On the other hand, someone registering within 30 days before any election would *not* be permitted to establish domicile by initialing that statement, even though that statement *is* on the form that would be used to register during that period—*i.e.*, the general election day registration form.

It will be virtually impossible for clerks and supervisors of the checklist to keep these requirements straight—and this is just the beginning of the confusion. The bill contains contradictory statements about what the supervisors are to do when a voter fails to present the required documents after an election, and even contradicts itself regarding what action is, or is not, sufficient to establish domicile. It also fails to amend the section of the law that says the standard registration form is to be used at all times other than at the general election—so there will be directly contradictory provisions about which form to use in the 30-day period before an election.

Click [here](#) for a more thorough (but still not exhaustive) explanation of the bill's many technical flaws, along with calendars showing which forms would be used throughout the year and a table that attempts to reconcile the registration forms and the domicile documentation requirements.

Several people stated at the hearing that 47 other states require solid proof of domicile before a person may vote. If that is true, surely some of those states have laws that are less complicated—perhaps we could borrow one. As we have stated before, the next state election is a long time off, and there is no need to rush this bill. Assuming legislation is necessary at all, we urge the committee to retain the bill for some much-needed work over the next several months. Please contact [committee members](#) and ask them to slow down the process by either retaining or killing **SB 3**.

Continued Support for Local Highway and Bridge Aid

On Tuesday the House Public Works and Highway Committee voted 16-1 Ought to Pass on **SB 38**, which provides \$30 million in additional highway block grant funding and \$6.8 million in additional bridge aid above the money typically provided to municipalities from the highway fund. As we requested, the bill was amended to specifically state that these additional funds may be accepted and expended as unanticipated revenue under RSA 31:95-b (even if a municipality has not adopted that provision), allowing the money to be spent on additional infrastructure projects beyond those included in the municipality's budget. (The amendment does not appear on the bill's docket as of this writing.) As we explained in last week's *Bulletin*, this one-time increase in road and bridge aid will come from the state's June 30, 2017 surplus (fund balance), and will result in approximately an 85% increase in highway block grants and fund an additional 8 -10 municipal bridge projects in fiscal year 2018.

SB 38 now heads for a vote in the House, presumably at its next session on May 4. Please urge your representative(s) to support the committee recommendation of Ought to Pass on **SB 38**.

Increased Cap on Local Option Transportation Fee Stalled

On Wednesday the Senate Public and Municipal Affairs Committee voted 3-1 to recommend re-referring **HB 121**, the **NHMA policy bill** that would increase from \$5 to \$10 the maximum fee that municipalities may opt to collect in addition to annual motor vehicle registration fees for use in a variety of transportation-related projects. The primary reason stated for re-referring the bill is

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that there appears to be significant money for municipal roads and bridges in various House and Senate budget proposals, which justified in most committee members' minds the need to hold the bill and revisit it early in the 2018 session after the budget has been adopted.

We are obviously disappointed with the committee recommendation. As we have noted all along, the local option transportation improvement fee is a classic example of local control, with **HB 121** merely raising the cap to adjust for the inflationary impact since the fee was first enacted in 1997. While we remain cautiously optimistic about additional state aid for roads and bridges in the fiscal year 2018 state budget, such additional funding will be a one-time deal. **HB 121** would provide the means to raise additional local dollars, other than through property taxes, to continue paying for road construction/maintenance, bridge repairs, and other transportation improvements. The bill, with the recommendation of re-refer, will be voted on by the full Senate next Thursday, April 27.

Veterans' Credit Bills

One veterans' credit bill died in the House this week, while another is taking a tortuous route through that chamber.

The House voted yesterday, 194-151, to kill **SB 168**, which would have increased the maximum amount of the optional veterans' property tax credit to \$1,000 (from \$500). NHMA did not take a position on the bill. We did have concerns about it, as we do about any bill that has the potential to narrow the property tax base and thus increase taxes for those who must pay the full rate. But it was a local option, so we could hardly object.

The bill came surprisingly close to passing, all things considered. In the Senate, the Public & Municipal Affairs Committee had voted 5-0 to recommend killing the bill, and it was placed on the consent calendar. The sponsor removed it from the consent calendar and made a strong pitch on the Senate floor, and the Senate passed it, 13-8.

In the House, the Municipal & County Government Committee voted Inexpedient to Legislate, 11-3. Again, supporters mounted a vigorous defense and achieved a respectable result, although not quite enough.

One interesting and heartening fact is that this was the rare bill that wasn't decided along predictable party lines, or even ideological lines. In the Senate, Democrats supported the bill unanimously, while Republicans split 8-5 against it (even though all of the bill's sponsors were Republicans). In contrast, House Democrats voted against it by a margin of 111-37, while Republicans supported it, 113-83. (If you're thinking that the votes in support don't quite add up, there is one Libertarian in the House, and he voted for the bill (*i.e.*, against the ITL motion).

The other bill is **SB 80**, which would allow a municipality to phase in the all-veterans' tax credit (for those who did not serve during a qualifying war) over a period of up to three years. Under the law enacted last year, a municipality that adopts the all-veterans' credit must set the credit at the same amount it has set for the standard or optional credit for wartime veterans. **SB 80** doesn't change that requirement, but does allow for a three-year phase-in. Thus, for example, if the municipality has adopted an optional veterans' credit of \$400, it could phase in the all-veterans' credit at \$100 for the first year, \$250 for the second year, and \$400 for the third year.

(Veterans' Credit Bills — Continued from Page 4)

The Senate passed the bill, but only after attaching a non-germane amendment dealing with the victims' contribution recovery fund related to the FRM fraud case. When the bill got to the House, it was sent to the Commerce Committee because of the FRM provision. At the Commerce Committee hearing last week, the chairman announced that the committee would be dealing only with the FRM issue, and the bill would have a second hearing before the Municipal & County Government Committee to address the tax credit.

The Commerce Committee voted unanimously this week to report the bill as Ought to Pass, and that report will go to the full House when it meets next, on May 4. Assuming the House passes the bill, it will then go to the Municipal & County Government Committee for a hearing on the all-veterans' credit issue.

HOUSE CALENDAR

TUESDAY, APRIL 25, 2017

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB

11:00 a.m. Public Hearing on non-germane amendment #2017-1452h to **SB 13**, relative to statutes governing the security force at the New Hampshire technical institute. The amendment dissolves the administrative attachment of the police standards and training council to the community college system of New Hampshire and establishes the police standards and training council as an executive branch council. It also repeals the statutes relating to the New Hampshire technical institute security force. Copies of the amendment are available in the Sergeant-at-Arms office, Room 318, State House.

SENATE CALENDAR

WEDNESDAY, APRIL 26, 2017

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 101, LOB

9:00 a.m. **HB 171**, prohibiting the state or its political subdivisions from assisting a federal agency in the collection of electronic data without a warrant.

10:15 a.m. **HB 323**, relative to standards for revaluations established by the assessing standards board.

TUESDAY, MAY 2, 2017

FINANCE, Representatives' Hall, SH

1:00 p.m. to 5:00 p.m.

HB 144 Public hearing on proposed Amendment #2017-1344s, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2018 and June 30, 2019 to HB 144. (HB 1-A as introduced, presented by the Governor)

HB 517 Public hearing on proposed Amendment #2017-1345s, relative to state fees, funds, revenues and expenditures to HB 517. (HB 2-FN-A-L as introduced, presented by the Governor)

TUESDAY, MAY 2, 2017—continued

6:00 p.m. to 8:00 p.m.

HB 144 Public hearing on proposed Amendment #2017-1344s, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2018 and June 30, 2019 to HB 144. (HB 1-A as introduced, presented by the Governor)

HB 517 Public hearing on proposed Amendment #2017-1345s, relative to state fees, funds, revenues and expenditures to HB 517. (HB 2-FN-A-L as introduced, presented by the Governor)

Please note: These hearings will be streamed live via the Internet at the following web address:
<http://sg001-harmony.sliq.net/00288/Harmony/en/PowerBrowser/PowerBrowserV2/20170502/-1/13197>

HOUSE FLOOR ACTION

Thursday, April 20, 2017

SB 58, relative to the authority of the department of state. **Passed.**

SB 67, relative to the authority of state police employees. **Passed; referred to JUD-S.**

SB 72, (New Title) establishing a committee to study certain investments by municipalities. **Passed.**

SB 108, relative to absentee ballot applications. **Passed.**

SB 116, requiring notice to affected municipalities of energy facility siting. **Passed with Amendment.**

SB 168, relative to increasing the maximum amount of the optional veterans tax credit. **Inexpedient to Legislate.**

SB 171-LOCAL, relative to the perambulation of towns. **Inexpedient to Legislate.**

SENATE FLOOR ACTION

Thursday, April 20, 2017

HB 86, relative to voting on variances. **Passed with Amendment.**

HB 88-FN, relative to the motor vehicle registration fees for disabled veterans **Passed with Amendment.**

HB 154, relative to interference with traffic devices. **Passed.**

HB 163, relative to the responsibility of a municipality to enforce its ordinances. **Passed.**

(Senate Floor Action — Continued from Page 6)

HB 178, establishing a commission to study processes to resolve right-to-know complaints. **Passed.**

HB 186, relative to limitation of actions in which the state is a plaintiff. **Passed with Amendment.**

HB 194, permitting employers to pay wages to employees weekly or biweekly. **Passed.**

HB 218, relative to activities at polling places. **Inexpedient to Legislate.**

HB 251, relative to the use of capital reserve fund appropriations by municipalities. **Passed.**

HB 265, relative to accessory dwelling units. **Passed.**

HB 294-FN-A, relative to the cost of fiscal analysis of legislation relating to the retirement system. **Passed; referred to F-H.**

HB 299, relative to notice by mail for zoning and planning purposes. **Passed.**

HB 303-L, relative to filling vacancies in the office of county commissioner. **Passed with Amendment.**

HB 336, relative to standards for outdoor wood-fired hydronic heaters. **Passed.**

HB 354-FN-A-L, making an appropriation to the department of education to provide additional adequate education grant payments to certain municipalities. **Passed.**

HB 371-L, relative to bond requirements for public works contracts. **Passed with Amendment.**

HB 380-FN, relative to the oil discharge and disposal cleanup fund. **Passed.**

HB 389, relative to voters with physical disabilities. **Passed with Amendment.**

HB 390, relative to parties on certain election forms and ballots and relative to the voter registration form used on the day of the general election. **Re-referred.**

HB 391, relative to checklists in other districts. **Passed.**

HB 417-FN, relative to certain motor vehicle records. **Passed.**

HB 424-FN, relative to documentation required for registration of certain title exempted vehicles and modifying the requirements for removal and sale of certain vehicles. **Passed.**

HB 431, establishing a commission to study long term goals and requirements for drinking water in the seacoast area. **Passed with Amendment.**

(Senate Floor Action— Continued from Page 7)

HB 432, relative to enforcement of parking prohibitions. **Passed.**

HB 433, relative to number plate decals for firefighters. **Passed.**

HB 453, relative to vacancies in the office of supervisor of the checklist. **Passed.**

HB 489, establishing a commission to study adaptation of the tax structure of the state to economic and demographic change. **Inexpedient to Legislate.**

HB 514, relative to alternate members of an elected planning board. **Passed with Amendment.**

HB 568-FN, relative to the taxability of lease interests in public property. **Passed with Amendment.**

HB 617-FN, relative to penalties for violations of planning and zoning laws. **Inexpedient to Legislate.**

UPCOMING EVENTS FOR NHMA MEMBERS	
2017 Local Officials Workshops: 9:00 a.m. – 4:00 p.m. (check-in and continental breakfast begin at 8:30 a.m.)	
May 4, 2017	Sugar Hill Meeting House
May 10, 2017	North Conway Water Precinct
May 23, 2017	Stratham Municipal Center
June 3, 2017	Concord NHMA Offices
May 11, 2017 9:00 a.m. – 4:00 p.m.	2017 Employment Law Workshop: Hot Trends and Developments
May 24, 2017 12:00 – 1:00 p.m.	Webinar – References to Records Check: Best Practices for Background Investigations
June 8, 2017 9:00 a.m. – 4:00 p.m.	Right-to-Know Law Workshop Concord, NH – NHMA Offices
October 27, 2017 9:00 a.m. – 1:00 p.m.	The Intersection of Land Use and Road Law: A New Hard Road to Travel Workshop

Please register through our website: www.nhmunicipal.org by scrolling down on the left under Calendar of Events
For more information or questions, please call 1-800-852-3358, Ext. 3350.