

LEGISLATIVE BULLETIN

Bulletin 06, 2018 Session
January 26, 2018

Town Meeting Takeover Bill Still in Play

SB 438, the bill that requires towns to ask permission from the Secretary of State to postpone Town Meeting Day voting in the event of a weather emergency, is still alive before the [Senate Election Law and Internal Affairs Committee](#). The committee has an executive session scheduled on Tuesday at which the bill may come up, so please be sure to let committee members know your thoughts before then.

As you know, there are many problems with the bill, not the least of which is giving the Secretary of State (SOS), or any state agency for that matter, authority over the scheduling of town meetings. What more can the SOS know about local conditions than town officials know? On what basis would the SOS deny a moderator’s request to postpone—and why should someone in Concord second guess the moderator and other local officials at all? And what about the testimony from the SOS’s office that the bill would allow him to unilaterally postpone all town meetings in a certain region in the event of bad weather—even if local officials wanted to hold the meeting?

Another major problem is the inclusion of new, mutually exclusive definitions of “meeting” and “election,” which are at odds with 200 plus years of town meeting law and the statutes that have been developed over that time. We have compiled three pages (and counting) of statutory sections that would no longer make sense because of these new definitions. Here are just a couple:

- RSA 32:2 provides that the municipal budget law applies to all towns “which adopt their budgets at an annual meeting of their voters.” Under **SB 438**, the municipal budget law will no longer apply to SB 2 jurisdictions, because they will now adopt their budgets at what the bill defines as an “election.” So what law will govern the budget process in SB 2 towns?
- RSA 40:4 provides that “the moderator shall preside in the town meetings.” Under **SB 438**, a meeting and an election are entirely separate events, so who will now preside at the town *election*?

The list goes on and on, and one must ask why all this chaos and distortion of the town meeting process is necessary for a weather event that is likely to occur infrequently, if history is a guide.

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We were told at the hearing that this is all about the voter, but one must ask, which voters? To draft something that conflicts with existing statutes, creates unanswerable questions, and does significant damage to established town meeting procedures, all in an effort to give the SOS unprecedented authority over town meetings, really begs the question of what voters are being served.

NHMA supports the provisions in the bill outlining what is to happen if the moderator and other local officials determine they will postpone the voting day due to hazardous weather conditions. We submitted an amendment incorporating those provisions, which makes that process very clear. Please contact the [committee](#) and your senator and urge them to adopt the NHMA amendment—and leave the authority over town meetings to town officials. It has worked for hundreds of years.

Utilities Won't Give Up on Valuation Efforts

We spent much of last year writing about [HB 324](#), a bill that, as introduced, would have required municipalities to use the values determined by the Department of Revenue Administration in assessing public utility property. After many hearings and work sessions and many hours of debate, the Science, Technology & Energy Committee voted 20-0 to recommend amending that bill to create a study commission. Every member of that committee understood that this is an extremely complicated subject that requires careful and extensive consideration before any changes are made. The House passed the bill on its consent calendar this month and then referred it to the Ways and Means Committee for further review. It has not yet been scheduled for a hearing in that committee.

After all that, it seems a bit odd that the utilities have come back with a different bill that would circumvent the study commission and accomplish approximately the same thing that **HB 324** originally proposed. [HB 1381](#) states that “the assessed value of any utility property subject to tax as real estate . . . shall not exceed the net book value of that property as it appears in the financial records of the utility.” Thus, any property that has been fully depreciated on the company’s books would be valued at zero for property tax purposes—a deal that any taxpayer would love to have.

To be fair, **HB 1381** was filed before the House passed the amended **HB 324**, and so perhaps it could be seen as a backup plan in case that bill was killed. However, given the extraordinarily clear message that the House sent when it ultimately passed **HB 324**, it seemed reasonable to expect **HB 1381**’s proponents to hear that message, back off, and let the study commission do its work.

Instead, utility representatives turned out in force this week for a two-hour hearing on **HB 1381**, urging the House Ways & Means committee to pass the bill, as if there were nothing else going on in this area. The bill’s primary, and only, sponsor did acknowledge **HB 324** and the anticipated study commission, but said he wanted to “forge ahead” nevertheless. The committee chairman indicated that the bill will be referred to a subcommittee of the whole for further consideration.

As a reminder, **HB 324** had a three-hour hearing last year, followed by two full-committee work sessions, four subcommittee work sessions, two more full-committee work sessions, two more subcommittee work sessions, another full-committee work session, and an executive session. Few non-budget bills in recent years have received such extensive consideration, and the Science, Technology & Energy Committee concluded after all that time and work that the issue was so complex that a study commission comprising interested parties from all quarters was warranted before the legislature makes any changes. **HB 1381** asks the legislature to pretend none of that happened and legislate a simplistic “solution” without bothering to determine whether there is a problem.

(Utilities—Continued from Page 2)

Although we are not convinced a study commission is necessary (because we believe the current law is working), we are certainly comfortable with the idea. In contrast, the utilities seem to be frantically trying to preempt the study commission, seeking instead to have the legislature act before gathering information. Why might that be?

It appears that we are going to have to revive last year's effort, flooding legislators with calls and e-mails about the impact this bill would have on the municipalities they represent. The Ways & Means Committee has scheduled a full-committee work session for **HB 1381** (and ten other bills) for next **Wednesday, January 30, at 1:00 p.m., in LOB Room 202**. It is unlikely that any final action will be taken that day, but please contact [members of the committee](#) and your own representatives as soon as possible and urge them to ***kill HB 1381***.

State Retirement Contribution Bill Up for Reconsideration

As we reported in [Bulletin #4, HB 413](#), an **NHMA policy bill** that would require the state to pay 15% of the New Hampshire Retirement System contribution costs for teachers, police, and firefighters, failed in the House earlier this month by a very slim margin of 172-166. After this vote, a representative on the prevailing side filed a notice of reconsideration, which means that when the House convenes next, most likely on February 7, a motion for reconsideration of **HB 413** will come forward.

Reinstatement of some portion of the state retirement contributions for teachers and public safety employees was a topic Governor Sununu discussed with municipal officials at the NHMA candidate forum held in October 2016, before his election. At that forum, then-candidate Sununu acknowledged that the state had reneged on its promise to local governments, and voiced support to reinstate some portion of the retirement contribution to help provide property tax relief. Additionally, the recently issued [final report](#) of the 2017 Decennial Retirement Commission includes a recommendation (see page 64) that the Legislature re-establish a state subsidy as a means to reduce retirement costs for local government employers.

Reconsideration of **HB 413** is the opportunity for state representatives to show support for reducing local property taxes! We understand that when the bill is brought up for reconsideration, an amendment will be offered to change the effective date so that the bill will have ***no fiscal impact on the current biennial state budget***, but rather will require that funding for a 15% state retirement contribution for teachers, police and firefighters be included in the FY 2020-2021 biennial budget – which state agencies and the Governor will begin preparing this fall for submission to the 2019 legislature.

Please review the [roll call vote on HB 413](#) and contact each of your representatives, especially those who voted in support (Yeas) of the ITL motion to kill the bill. Let them know what a 15% state retirement contribution means to your city, town, or school district. Urge their support of local property tax relief by voting:

YES on the motion to reconsider **HB 413**

NO on the motion of Inexpedient to Legislate on **HB 413**

YES on the motion to amend the effective date of **HB 413**

YES on the motion of Ought to Pass as Amended on **HB 413**

As always, please forward a copy of any correspondence to us at governmentaffairs@nhmunicipal.org so we can reinforce your particular message during our ongoing discussions with legislators.

Income and Expense Information for Assessing Purposes

On **Wednesday, January 31, at 10:00 a.m., in LOB Room 102**, the Senate Public and Municipal Affairs Committee will hear testimony on [SB 509](#), which proposes to require an owner of business property to submit, upon request, income and expense information necessary for a municipality to properly assess commercial property using the income approach to value.

In 2015 the Assessing Standards Board (ASB) established a subcommittee to examine the availability of rental and expense information in the process of valuation of income-producing property and prepare a white paper to convey the issues to the ASB and the public. As stated in the preamble to that report, *“the accurate valuation of rental (income producing) property requires the ability to understand the market dynamics. In requesting the report, the ASB hopes to improve everyone’s understanding of the importance, usefulness, and challenges of the collection and use of this type of information.”* A copy of the report titled [“An Overview of Property Income and Expense Information and its Impact on Property Assessments”](#) is available on the ASB website.

NHMA supports **SB 509**, which would provide much-needed information to enable assessors to determine fair values for income-producing properties. Please consider attending the hearing, or contact members of the [committee](#) to let them know you support the bill.

Water, Water, Everywhere

Eight separate bills – [HB 1101](#), [HB 1590](#), [HB 1592](#), [HB 1618](#), [HB 1727](#), [HB 1737](#), [SB 309](#), and [SB 454](#)—all dealing with water quality standards and testing— had hearings, work sessions and/or proposed amendments in the past two weeks in both House and Senate policy committees. An analogy to “herding cats” is an understatement in terms of trying to track the activity on these legislative proposals! Nevertheless, a common theme in testimony, particularly from the New Hampshire Department of Environmental Services (DES), is that water quality standards, be they maximum contaminant levels or ambient groundwater quality standards for perfluorinated chemicals, MTBE, or arsenic, should be either (1) established based upon EPA advisories/standards or (2) established through DES administrative rules based upon peer-reviewed scientific data available to quantify health-based criteria, with full understanding of the impact and practicality of setting the standards, and of the time and resources needed for comprehensive analysis. NHMA, the NH Business and Industry Association, the NH Water Works Association, the American Council of Engineering Companies of New Hampshire, and others concur that these approaches are preferred over legislating specific water quality standards.

Activity on several of these bills will continue next week, with executive sessions on **HB 1101** and **HB 1592** in the House Resources, Recreation and Development Committee at **10:00 a.m. on Tuesday, January 30 in LOB Room 305**.

10-Year Transportation Improvement Program

Next **Wednesday, January 31, at 1:00 p.m., in LOB Room 201**, the House Public Works and Highways Committee will hold a hearing on [HB 2018](#), the state 10-year transportation improvement program. A copy of the Governor’s recommendations, including a list of projects by municipality, is available on the [Department of Transportation website](#).

HOUSE CALENDAR

MONDAY, JANUARY 29, 2018

COMMITTEE TO STUDY CERTAIN INVESTMENTS BY MUNICIPALITIES (SB 72, Chapter 37:1, Laws of 2017), Room 102, LOB

1:00 p.m. Regular meeting.

TUESDAY, JANUARY 30, 2018

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Room 205, LOB

1:15 p.m. **HB 1804-FN**, relative to work requirements for able-bodied adults for public assistance programs.

JUDICIARY, Room 208, LOB

10:30 a.m. **CACR 15**, relating to legal actions. Providing that taxpayers have standing to bring actions against the government.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

2:30 p.m. **HB 1533**, relative to expiration of variances and special exceptions.

TRANSPORTATION, Room 203, LOB

10:30 a.m. **HB 1507-FN**, relative to state inspection of new motor vehicles.

2:00 p.m. **HB 1734-FN**, relative to inspection and registration of motor vehicles.

WAYS AND MEANS, Room 202, LOB

10:00 a.m. **HB 1558-FN**, relative to the payment of the meals and rooms tax by individuals renting cars through an online service.

WEDNESDAY, JANUARY 31, 2018

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB

10:00 a.m. **HB 1427-FN**, relative to membership in the retirement system for certain officials.

10:30 a.m. **HB 1603**, relative to employee representation on the independent investment committee in the New Hampshire retirement system.

1:00 p.m. **HB 1757-FN**, relative to the reduction in the calculation of state retirement system annuities at age 65.

2:00 p.m. **HB 1754-FN-L**, establishing a state defined contribution retirement plan for state and political subdivision members of the retirement system.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 307, LOB

10:00 a.m. **HB 1462-FN**, relative to health and dental benefits under the workers' compensation law.

10:30 a.m. **HB 1500-FN**, relative to workplace violence, workplace injuries and death in the workplace.

11:00 a.m. **HB 1508-FN**, relative to wage compensation under workers' compensation.

1:00 p.m. **HB 1711-FN**, relative to rehabilitation under the workers' compensation law.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB 10:00 a.m.

1:00 p.m. **HB 1211**, relative to presite built housing.

1:30 p.m. **HB 1318**, relative to permits required for certain fires.

2:00 p.m. **HB 1414-FN**, relative to forfeiture fees regarding dog licenses.

2:30 p.m. **HB 1561**, relative to the use of recycled tire rubber at village, town, municipal, and school playgrounds.

(House Calendar— Continued from Page 5)

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

1:00 p.m. **HB 2018**, relative to the state 10-year transportation improvement program

FRIDAY, FEBRUARY 2, 2018

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

1:00 p.m. **HB 1210**, establishing a committee to study the effect of current use taxation on small and rural municipalities.

1:30 p.m. **HB 1391**, relative to municipal retention of employment files. **NHMA Policy.**

2:00 p.m. **HB 1450**, relative to retention of job applications and personnel files. **NHMA Policy.**

2:30 p.m. **HB 1608**, prohibiting a municipality or school district from compensating an employee on leave of absence.

TUESDAY, FEBRUARY 6, 2018

COMMERCE AND CONSUMER AFFAIRS, Room 302, LOB

10:45 a.m. **HB 1597**, relative to grounds for receivership involving a manufactured housing park.

1:15 p.m. **HB 1607**, relative to the appointment of a receiver for properties which are a threat to health and safety.

2:00 p.m. **HB 1635**, allowing a license for short-term rentals.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

1:00 p.m. **HB 1269**, relative to the requirement for campground owners to provide certain information to local assessing officials.

2:00 p.m. **CACR 19**, relating to right to govern. Providing that the people of the state may enact local laws that protect health, safety and welfare.

SENATE CALENDAR

TUESDAY, JANUARY 30, 2018

ENERGY AND NATURAL RESOURCES, Room 103, SH

9:45 a.m. **SB 529-FN**, authorizing river maintenance in the town of Warren.

10:00 a.m. **SB 450-FN-A**, establishing an advisory commission for the department of environmental services relative to the delegation of authority of the National Pollutant Discharge Elimination System Program

FINANCE, Room 103, SH

1:30 p.m. **SB 579-FN**, relative to penalties for welfare fraud

HEALTH AND HUMAN SERVICES, Room 101, LOB

1:45 p.m. **SB 547**, relative to unused prescription drugs.

WEDNESDAY, JANUARY 31, 2018

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

9:20 a.m. **SB 512**, relative to compact sections of towns.

9:40 a.m. **SB 511**, establishing an optional tax credit for deployed military personnel.

10:00 a.m. **SB 509**, allowing municipalities to require income and expense information of business properties for tax appraisals.

10:20 a.m. **SB 510**, relative to municipal notice of leases on tax-exempt property

TUESDAY, FEBRUARY 1, 2018

COMMERCE, Room 100, SH


1:15 p.m. **SB 417**, relative to days of rest for employees of recreation camps and youth skill camps.

1:30 p.m. **SB 422**, relative to advance notice of work schedules

NEW BILLS

HB 2018 adopts the 10-year transportation improvement plan for 2019-2028. Rep. McConkey of Freedom; **PW**.

SB 592-FN-A restores incentive funds to municipalities to develop prevention and court diversion programs to avoid placements in abuse and neglect cases and reduce the number of child protection cases. Sen. Carson of Londonderry; **HHS**.



2018 **Upcoming NHMA Workshops and Webinars**

Feb. 17 2018 Moderators Workshop for Traditional Town Meeting

Feb. 21 NHMA Webinar—Election Law Changes in 2018

Mar. 14 NHMA Webinar—Municipal Social Media Policies and Free Speech

Apr. 6 Organizational Meeting of 2019-2020 Legislative Policy Process

 Please register online through our website www.nhmunicipal.org. (Scroll down on left to Calendar of Events and click View the Full Calendar)

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