

# LEGISLATIVE BULLETIN

## Hearing on Town Election Postponement

Bulletin 03, 2019 Session  
January 11, 2019

One of the first bills to be heard this year will be [HB 408](#), NHMA’s policy bill that preserves and clarifies the moderator’s existing authority to postpone town elections in the event of a weather emergency. The bill is scheduled for a hearing before the House Election Law Committee next **Thursday, January 17, at 1:30 p.m., in LOB Room 308.**

Readers will remember that in both 2017 and 2018, major snowstorms struck New Hampshire on town meeting day. Relying on RSA 40:4, II, which gives the moderator authority to “postpone and reschedule the deliberative session *or voting day* of the [town] meeting,” some moderators postponed the official ballot voting sessions of their meetings. Those actions were challenged by state officials, and the issue has been contested for almost two years. Last year the Senate passed a bill that would have required moderators to obtain permission from the secretary of state before postponing a town election, but that bill was overwhelmingly rejected by the House.

NHMA’s members have made it clear that protecting the moderator’s authority to postpone, without state interference, is one of their top priorities. **HB 408** clarifies that “voting day” means the official ballot voting session—the town election—and affirms the moderator’s authority to postpone that session for a weather emergency, but also for an accident, natural disaster, or other emergency that renders use of the meeting location unsafe.

**HB 408** also addresses all of the legitimate concerns that have been raised about postponement of town elections. It ensures consistency by requiring that the voting session be postponed for exactly two weeks in all cases. It protects the rights of all voters by guaranteeing that voters who are unable to attend the rescheduled session can vote by absentee ballot. It resolves the problem of multi-town school districts by providing that the elections in each town may be postponed only if all of the town moderators agree. It is also very clear that the bill deals only with *town* elections--it has nothing to do with state elections.

There is no more fundamental aspect of local authority than the ability to control local elections. This is an existential matter for New Hampshire

### INSIDE THIS ISSUE

State Wastewater Grants	2
Building Code Bills	3
Bills Trickling Out	3
Vacation Week	3
House Calendar	4
New Bills	5
NHMA Events	8

### GOVERNMENT AFFAIRS CONTACT INFORMATION

**Margaret Byrnes**, 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  
Email address below:  
[governmentaffairs@nhmunicipal.org](mailto:governmentaffairs@nhmunicipal.org)  
Website: [www.nhmunicipal.org](http://www.nhmunicipal.org)

*(Election Postponement — Continued from Page 1)*

towns. Please consider attending the hearing next Thursday, and in any event, make sure members of the [Election Law Committee](#), and your own representatives, know how important it is to **support HB 408**.

## **State Aid Grants for Wastewater Projects**

On **Thursday, January 17, 2019 at 1:15 p.m. in LOB Room 210**, the House Finance Committee will hold a public hearing on [HB 352](#), an **NHMA policy bill** that appropriates **\$3,652,347** in fiscal year 2020 and **\$3,781,024** in fiscal year 2021 to fund the state share of 70 eligible and completed wastewater projects across the state under the state aid grant (SAG) program pursuant to [RSA 486](#).

In 1959 the legislature enacted RSA 149-A, *Aid to Municipalities for Water Pollution Control*, the predecessor statute to RSA 486, based on the following principles stated in the law:

- A recognition that the state and/or federal government have required certain municipalities to construct wastewater control systems to control the pollution of its surface waters thereby improving the quality of such waters in the interest of health, recreation and industry;
- A recognition that these municipalities have in the past and others in the future will expend significant taxpayer monies to pay for these systems in accordance with developing federal and state laws and regulations;
- A recognition that the program benefits not only the local municipality but also residents of the entire state;
- A recognition that the state should assume its proportionate share of the financial obligations resulting from the installation of such systems acting in the best interest of the general public's health and welfare.

These same principles still apply today in terms of funding this important state and local partnership, and will continue to apply well into the future. **HB 352** is a step toward lifting the moratorium that has been in place since fiscal year 2014 on funding any wastewater infrastructure projects that did not have local financing authorization by December 31, 2008. The list of affected municipalities, along with the New Hampshire Department of Environmental Services estimated grants for these 70 projects, is available [here](#).

Municipalities eligible for this funding are urged to attend the hearing and/or provide a letter in support of **HB 352** to [House Finance Committee members](#). Please provide us with a copy of your written testimony, which we will be happy to submit to the committee on your behalf.

## Building Code Bills

The House Executive Departments and Administration Committee will hear several bills next **Wednesday, January 16**, dealing with building code issues. The bills and hearing times are as follows:

- **1:00 p.m.** – [HB 247](#) is an **NHMA policy bill** that updates the state building code by incorporating the 2015 editions of the various ICC codes. Current law refers to the 2009 editions of each code.
- **1:30 p.m.** – [HB 259](#) requires that “any notice of violation issued by the building inspector for substandard or non-compliant workmanship or the use of unapproved materials shall include the relevant section of the state or local building code.”
- **2:00 p.m.** – [HB 303](#) provides that any person appointed by a municipality to enforce the building code “shall have International Code Council certification in International Residential Code proficiency or shall have shown sufficient knowledge of code compliance requirements, as determined in rules adopted by the state building code review board,” in nine specific areas.

All of the hearings will be in **LOB Room 306**. Please let us know if you have questions or concerns about any of these bills, and attend the hearings or contact members of the [committee](#) to let them know your views.

## Bills Trickling Out

It seems that the bills are coming out more slowly than usual this year. As of this writing, 406 bills had been released; that may seem like a lot, but we are expecting close to a thousand altogether. No Senate bills have been released yet. (Today is the last day for senators to sign off on their bills.)

Still, there are enough to provide work for most of the House committees, some of which started holding hearings this week. There is a full plate of House hearings next week, as you will see in the calendar in this Bulletin. With no Senate bills, however, there will be no Senate hearings next week.

## Senate Will Break; House Will Merely Bend

One of the more eagerly anticipated announcements each year is whether the House and Senate are going to take a winter break. Historically, they have usually, but not always, taken a one-week break coinciding with the New Hampshire school vacation week in late February.

This year, the Senate is taking a break the week of February 25. The House is not taking an official break, but committee chairs have been told that if they are able to get their work done, they can take the week of February 25 off. Needless to say, we encourage them to do just that.

## HOUSE CALENDAR

TUESDAY, JANUARY 15, 2019

### **ELECTION LAW, Room 308, LOB**

- 10:00 a.m.      **CACR 5**, relating to the right to vote. Providing that 17 year olds who will be eligible to vote in the general election be permitted to vote on that election's primary election.
- 10:30 a.m.      **HB 242**, relative to special elections.
- 1:30 p.m.        **HB 147**, relative to appeals from recounts.
- 2:00 p.m.        **CACR 6**, relating to elections. Providing that any inhabitant who so desires may vote by absentee ballot in primary and general elections.

### **HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Room 303, LOB**

- 10:00 a.m.      **HB 311**, regulating sober living facilities.

### **MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB**

- 10:00 a.m.      **HB 167**, allowing the town of Kingston to hold a bonfire event in 2019.
- 10:30 a.m.      **HB 245**, relative to the planning board's procedures on plats.
- 11:30 a.m.      **HB 334-L**, relative to disposition of certain municipal records.
- 1:00 p.m.        **HB 125**, allowing county officers to be chosen by secret ballot, and exempting secret ballots from the right-to-know law.

### **PUBLIC WORKS AND HIGHWAYS, Room 201, LOB**

- 1:00 p.m.        **HB 135**, relative to leased railroad property.

WEDNESDAY, JANUARY 16, 2019

### **CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB**

- 2:30 p.m.        **HB 218**, relative to the use of deadly force by a law enforcement officer.

### **EDUCATION, Room 207, LOB**

- 10:30 a.m.      **HB 149**, relative to the apportionment of costs in cooperative school districts.

### **EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB**

- 11:00 a.m.      **HB 165**, prohibiting a public official from contracting out his or her duties.
- 1:00 p.m.        **HB 247**, relative to the definition of the state building code. **NHMA Policy.**
- 1:30 p.m.        **HB 259**, relative to building code violations.
- 2:00 p.m.        **HB 303**, relative to certification of building code compliance inspectors.

### **LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 307, LOB**

- 10:00 a.m.      **HB 255**, relative to shift differential pay for employees who work overnight.

### **MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB**

- 10:00 a.m.      **HB 143**, relative to incompatibility of offices.
- 10:30 a.m.      **HB 136**, increasing the maximum period for the zoning board of adjustment to hold a public hearing.
- 11:00 a.m.      **HB 145**, relative to the counting of secret ballots.
- 11:20 a.m.      **HB 146**, relative to the counting of defective ballots.

### **WAYS AND MEANS, Room 202, LOB**

- 1:30 p.m.        **HB 254-FN-A**, relative to the provision allowing operators to retain a portion of meals and rooms taxes collected and the appropriation of meals and rooms tax revenues to school building aid.

**THURSDAY, JANUARY 17, 2019**

**ELECTION LAW, Room 308, LOB**

- 10:30 a.m.      **HB 431**, relative to election officers at additional polling places.  
1:30 p.m.      **HB 408-L**, relative to postponement of town meetings and local elections. **NHMA Policy.**

**FINANCE, Rooms 210-211, LOB**

- 1:15 p.m.      **HB 352-FN-A**, appropriating funds to the department of environmental services for the Purpose of funding eligible wastewater projects under the state aid grant program. **NHMA Policy.**

**MUNICIPAL AND COUNTY GOVERNMENT, Rooms 301-303, LOB**

- 10:00 a.m.      **HB 210-FN**, relative to civil actions against public officials in cities or towns.  
1:00 p.m.      **HB 232-FN-L**, relative to enforcement of immigration laws and the prohibition of Sanctuary policies.

**WEDNESDAY, JANUARY 23, 2019**

**JUDICIARY, Room 208, LOB**

- 10:00 a.m.      **HB 153**, relative to circumstances under which police officer disciplinary records shall be Public documents.  
10:30 a.m.      **HB 154**, prohibiting non-disclosure agreements in certain legal actions against a Governmental body.  
11:00 a.m.      **HB 286-L**, relative to free inspection of records under the right-to-know law.  
11:30 a.m.      **HB 396-FN-L**, relative to delay or denial of records under the right-to-know law.

**New 2019 House Bills**

HB 364 permits qualifying patients and designated caregivers to cultivate cannabis for therapeutic use. Rep. Cushing of Hampton; **HHS&EA.**

HB 365 increases the electric generating capacity of customer generators who may participate in net energy metering and modifies the transition of tariffs applicable to certain customer generators. **NHMA Policy.** Rep. Moffett of Canterbury; **ST&E.**

HB 367-FN establishes a state bank. Rep. Marple of Hooksett; **COM-H.**

HB 370 removes the prohibition against appointed city planning board members holding other municipal office, and permits any 2 members of a city or town planning board to serve on other municipal boards or commissions, subject to certain restrictions. Rep. Cloutier of Claremont; **M&CG.**

HB 384 permits a municipality to create and maintain a path to a historic burial site on state land within the municipality. Rep. Abrami of Stratham; **PW.**

HB 387 provides that compliance with additional state and local building code requirements shall not be required for issuance of a certificate of occupancy unless the occupancy classification has

*(House Bills— Continued from Page 5)*

changed or unless the property is undergoing a substantial renovation. Rep. Beaudoin of Rochester; **ED&A-H**.

HB 388-LOCAL limits the administrative fee a municipality may charge for a building permit if it does not perform a code compliance inspection. Rep. Beaudoin of Rochester; **M&CG**.

HB 391 requires that a current photo identification be presented to the town or city clerk to obtain a registration permit. Rep. Sykes of Lebanon; **TRANS-H**.

HB 392-FN-LOCAL requires the northern New Hampshire correctional facility to make a payment in lieu of taxes to the city of Berlin. Rep. Tucker of Randolph; **M&CG**.

HB 396-FN-LOCAL requires a public body or agency to provide written reasons for delay or denial of records under the right-to-know law. Rep. DiLorenzo of Newmarket; **JUD-H**.

HB 403-LOCAL includes credit unions in the definition of “bank” for the purposes of town trust funds. Rep. Steven Smith of Charlestown; **M&CG**.

HB 404 permits a town to vote on whether to allow a liquified natural gas storage facility in the town. Rep. Vallone of Epping; **ST&E**.

HB 406 requires the commissioner of the department of labor to inspect a place of employment where a serious injury or death has occurred and requires an employer to report such injury or death to the department of labor. Rep. McBeath of Portsmouth; **LABOR**.

HB 407-FN exempts telecommunication antennas from taxation as real estate. Rep. Belanger of Hollis; **M&CG**.

HB 408-LOCAL clarifies the process for a moderator to postpone a local election. **NHMA Policy**. Rep. Porter of Hillsborough; **EL**.

HB 409 increases the maximum optional fee for transportation improvements that may be charged by municipalities when collecting motor vehicle registration fees. **NHMA Policy**. Rep. Vann of Peterborough; **M&CG**.

HB 410 allows all state agencies and political subdivisions to have access to certain enhanced 911 information. Rep. M. Pearson of Hampstead; **JUD-H**.

HB 411 requires apportionment of the capital and operational costs of cooperative school districts based on the proportional equalized taxation of the constituent districts. Rep. Comeau of Brookfield; **EDUC-H**.

HB 415 modifies the process for a town to adopt the official ballot referendum form of town meeting. **NHMA Policy**. Rep. Carson of Warner; **M&CG**.

HB 418-FN excludes emergency response and training by retired members working for municipal

fire departments from the limitations on part-time employment by retired members in the retirement system. Rep. Danielson of Bedford; **ED&A-H**.

HB 423 provides that the governing body member on a municipal budget committee shall be a nonvoting member of the committee. Rep. Torosian of Atkinson; **M&CG**.

HB 426 establishes a committee to study allowing town clerks to accept proof of exemption from rabies vaccination for the purpose of registering dogs. Rep. Sofikitis of Nashua; **E&A**.

HB 431 eliminates the requirement that assistant moderators and clerks for additional polling places in towns be domiciled in the voting district. Rep. Gay of Salem; **EL**.

HB 434 adds a cause for removing a town clerk from office. Rep. Myler of Hopkinton; **M&CG**.

HB 443 allows the local governing body to restrict the use of water for commercial outdoor watering during periods of drought. Rep. McBeath of Portsmouth; **M&CG**.

HB 454 modifies the criteria to be used by the site evaluation committee. Rep. Backus of Manchester; **ST&E**.

HB 456-FN removes the exception from required lobbyist registration for certain communications by an employee on behalf of his or her employer. Rep. M. Smith of Durham; **LEGIS ADMIN**.

HB 464 changes the definitions of solar energy systems and wind-powered energy systems for purposes of property tax exemptions. Rep. Carson of Warner; **ST&E**.

HB 466 increases the apportionment for net energy metering provisions from electrical facilities with total generating capacity of 100 kilowatts to 500 kilowatts. Rep. Backus of Manchester; **ST&E**.

HB 468-FN-LOCAL includes attendance stipends paid to teachers and school employees in earnable compensation for the New Hampshire retirement system. Rep. P. Schmidt of Dover; **ED&A-H**.

HB 469 provides that amendments to petitioned warrant articles in towns that have adopted the official ballot referendum (SB 2) form of town meeting shall not change the intent of the original article. Rep. Spillane of Deerfield; **M&CG**.

HB 475 establishes a shoreland septic system study commission. Rep. Spang of Durham; **RR&D**.

HB 477-FN distributes all proceeds from allowance sales under the New Hampshire regional greenhouse gas initiative program to ratepayers minus administrative costs. Rep. Notter of Merrimack; **ST&E**.

HB 478-FN-A establishes a road usage fee for motor vehicles registered to travel on New Hampshire roads based on the equivalent miles per gallon of the vehicle, to be collected at the time of annual registration of the vehicle and deposited in the highway fund. Rep. Major of Plaistow; **PW**.

*(House Bills— Continued from Page 7)*

HB 479-FN increases the income and property value criteria for claimants of the low and moderate income homeowners property tax relief against statewide education property taxes. Rep. Fellows of Holderness; **M&CG**.

2019 NHMA UPCOMING EVENTS FOR MEMBERS	
Jan 16	The Right-to-Know Law Workshop for Law Enforcement
Jan 23	Webinar: Municipal Trustees Training 101
Feb 13	Webinar: Something's in the Air: Outdoor Wood Boilers and Open Burning Regulations
Feb 16	2019 Moderators Workshop for Traditional Town Meeting
To register for an upcoming event, go to our website: <a href="http://www.nhmunicipal.org">www.nhmunicipal.org</a> and scroll down on the left under CALENDAR OF EVENTS. Click on the green bar <i>View the Full Calendar</i> and go to the workshop or webinar you are interested in. For more information, please call NHMA's Workshop registration line: (603) 230-3350.	