

LEGISLATIVE BULLETIN

House Finance Committee to Vote on Proposed Biennial State Budget

Bulletin 14 — 2019 Session
March 29, 2019

This week the three divisions of the House Finance Committee completed their review of the governor’s proposed budget, amending, deleting, and adding to the budget line items in [HB 1](#) and associated provisions in [HB 2](#), the companion budget “trailer” bill. On **Monday, April 1, at 1:00 p.m.** and **Tuesday, April 2, at 10:00 a.m. in LOB Room 210**, the three divisions will brief the full [House Finance Committee](#) on the budget changes recommended by a majority of each division. After those briefings, on **Wednesday, April 3, at 1:00 p.m. in LOB Room 210**, the Finance Committee will vote on the recommended biennial budget to be presented to the House on **Thursday, April 11**. Assuming the House passes **HB 1** and **HB 2** (which did not happen two years ago), the House version of the budget will go to the Senate, where the detailed deliberations will begin all over again with members of the [Senate Finance Committee](#).

Although the divisions have finalized their recommendations, we are likely to see budget amendments proposed next Wednesday before the House Finance Committee vote – and we can’t predict what those may be! However, we can tell you where things stand right now in terms of funding for cities and towns:

- **Municipal Aid** – provides **\$12.5 million** to municipalities in the second year of the budget, to be distributed by September 1, 2021, based on the revenue sharing formula in RSA 31-A:4. This is intended to fund approximately fifty percent of the revenue sharing that has been suspended since 2010, and provide municipal property tax relief that many legislators have indicated is a budget priority. Click [here](#) for a list of the estimated amounts by municipality.
- **Meals and Rooms Tax Distribution** – funds the meals and rooms tax distribution at **\$68.8 million** each year of the biennium, the same dollar amount as fiscal year 2019.

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- **Highway Block Grants** – funds highway block grants at slightly more than **\$72 million** over the biennium (exact amounts per year will be based on twelve percent of revised revenue estimates from the gas tax and motor vehicle fine revenues).
- **Municipal Bridge Aid** – funds municipal bridge aid at **\$6.8 million** each year of the biennium, which should fund repairs or replacement of approximately 8 to 10 bridges each year.
- **State Aid Grants (SAG)** – increases SAG by **\$5.7 million** over the biennium to fund the state share for 58 of the 70 wastewater projects listed in [HB 352](#) (projects substantially completed by December 1, 2018). Total state funding for these specific projects is estimated to be approximately **\$51 million** over the next 20 years. The list of 58 projects is available [here](#).
- **Flood Control** – includes **\$887,000** each year for reimbursements to municipalities involved in flood control compacts.
- Most of the projects included in the governor’s Capital Infrastructure Revitalization Fund were deleted. A few of those projects, which were included as “priority needs” of specific state agencies, were retained. There will be more definitive information regarding those projects after the briefings next week.

Remember that we are in the mid-stage of the state budget process, with many changes still likely to occur. For example, the budget is predicated on new revenue generated from sports wagering, and from expanding the interest and dividends tax to include capital gains, which has been proposed in the past but not enacted. We will keep you posted in the *Bulletin* as this process proceeds.

Local Option Occupancy Fee

On Wednesday the House Ways and Means Committee recommended Ought to Pass with Amendment by a vote of 12-8 on [HB 641](#), the **NHMA policy bill** that authorizes municipalities to adopt a local option hotel occupancy fee of up to \$2 per night for hotel room rentals. The [amendment](#) includes a reference to the term “occupancy” as defined in the RSA 78-A:3, VI, the meals and rooms tax law, and was recommended by the Department of Revenue Administration.

As we explained in [Bulletin #9](#), although this bill may not be of interest to all municipalities, we hope that all NHMA members would support the principle of local control to address the needs and circumstances unique to each municipality. This bill does that by providing a local option fee to help a number of municipalities. **HB 641** will go to the full

This week’s to-do list

- ✓ Urge your representative to **vote down** the House Finance Committee’s recommendation of Ought to Pass on **HB 616** (COLA for NHRS retirees) next Thursday.
- ✓ Ask your representatives to **support** the House Ways & Means Committee’s recommendation of Ought to Pass on **HB 641** (local option hotel occupancy fee) on Thursday.
- ✓ Let your legislators know if you have concerns about **SB 100** and **HB 253**, which would limit a municipality’s ability to request information about a job applicant’s criminal history.
- ✓ Let us know if **SB 79**, requiring reporting of solid waste information, will cause problems for your municipality.
- ✓ Sign up for one of NHMA’s April workshops and the April 17 legislative webinar.

House for a second vote on **Thursday, April 4**. *Please urge your representatives to support local control by voting YES on the committee recommendation of Ought to Pass with Amendment.*

Finance Committee Recommends Retiree COLA

On Wednesday, the House Finance Committee recommended Ought to Pass by a vote of 12-8 on **HB 616**, which provides a 1.5% cost of living adjustment (COLA) for all New Hampshire Retirement System (NHRS) retirees who have been retired at least 5 years on or before July 1, 2019. The COLA will be based on the first \$50,000 of a retiree's pension. The cost for the COLA is slightly less than NHRS estimated in the original version of the bill (which did not limit the COLA to the first \$50,000) but is in the vicinity of **\$77 million**. This amount will be added to the current \$5 billion unfunded liability of the NHRS and will be paid for over 20 years through *increased employer contribution rates* of approximately \$4.4 million per year beginning in July 2021.

We continue to express concern that financing retiree COLAs through increased employer contribution rates violates the unfunded mandate provision in Part 1, Article 28-a of the New Hampshire Constitution. We have no objection to COLAs, but in the past COLAs have always been paid for by the state or from the "special account," not by additional assessments on municipal, school, and county employers. Please share this concern with your representatives as they prepare to vote for a second time on **HB 616**. *The bill will go to the full House next Thursday, April 4. Please ask your representatives to vote down the committee recommendation and then support a motion of Inexpedient to Legislate.*

Moderator Authority Postponed No Longer

On Wednesday the Senate passed **SB 104**, relative to postponing the official ballot session of town meetings. Though the bill passed uneventfully on the consent calendar, it was a moment worth celebrating. **SB 104** represents the work of many individuals, including town moderators and other local officials. The bill recognizes moderator authority to postpone voting in towns, village districts, school districts, and cities. Importantly, it also sets a procedure for postponement, including a National Weather Service weather event warning as a "triggering" event, communication between the moderator and other local officials such as the police and fire chiefs, provisions for absentee voting in the event of a postponement, and a procedure for postponement in multi-town school districts. It now moves on to the House.

Bills Prohibit Asking About Criminal History

By a 14-10 vote, the Senate this week passed **SB 100**, which prohibits any public or private employer from "inquir[ing] about a prospective employee's prior arrests, criminal charges, or convictions on an employment application, unless the employer needs to screen applications for specific criminal convictions because it is prohibited from hiring those with such convictions under state or federal law." The employer could ask about criminal history in a job interview, but not before then, nor could it perform a criminal background check before the initial interview.

(Criminal History— Continued from Page 3)

We have serious concerns about this bill. A police department would never hire someone with a long history of violent crime, and a municipality would not (we hope) hire a convicted embezzler for a job as finance director or tax collector. It's fine that the employer may ask such questions in an interview, but why waste both the employer's and the applicant's time on an interview if there is no chance that the applicant will be hired? The bill will go to the House for a hearing in the next few weeks.

The House passed a similar bill, [HB 253](#), in February, and that bill is awaiting a Senate hearing. Although we have similar concerns about that bill, it does contain some exceptions that make it a bit more palatable. It does not apply when a person is applying for a job with a law enforcement agency, or for "a position that requires a standard fidelity bond or equivalent bond, where the applicant's conviction of a crime would disqualify the applicant from obtaining such a bond." The latter exception presumably would encompass any of the town officials and employees who are required to be bonded under RSA 41:6.

But that still leaves a lot of territory. Should the town have to wait until an interview to learn that the applicant for a truck driver position has a long history of DWI, or that an applicant for a library aide position is a convicted sex offender?

We would prefer to see a blanket municipal exemption in both bills; or, failing that, to see the bills killed. ***Please let your senator and representatives know if you have concerns about these bills.***

Net Energy Metering

[HB 365](#), the **NHMA policy bill** that increases to five megawatts (from one megawatt) the capacity limit for a customer-generator to participate in net energy metering, and which passed the House just last week, has already been scheduled for a Senate hearing. See [last week's Bulletin](#) for a discussion about the bill. The Senate hearing is next **Tuesday, April 2, at 9:00 a.m., in State House Room 103**, before the [Energy and Natural Resources Committee](#).

Meanwhile, the Senate this week passed the almost-identical [SB 159](#) by a 24-0 roll call vote. That ought to be veto-proof!

Senate Action on Municipal Bills

Facing its deadline to act on all Senate bills, the Senate took final action this week on many bills that affect municipalities. The more notable ones were:

Third-party inspections for planning boards. The Senate ***re-referred*** [SB 152](#), which would require a planning board to solicit proposals from at least three qualified firms before hiring a third-party consultant to monitor construction of an approved project. Nothing further will happen with the bill until the fall, when the Election Law and Municipal Affairs Committee will make a recommendation. NHMA opposed the bill.

Right-to-Know Law ombudsman. The Senate ***passed*** [SB 313](#), which creates the position of an ombudsman to hear Right-to-Know Law complaints and establishes a citizens' commission on the Right-to-Know Law. However, the Senate then immediately tabled the bill. Presumably

this is because, like many other bills that the Senate passed and then tabled, it requires an appropriation of state funds, so the matter will be revisited when the Senate gets the budget bill from the House. Meanwhile, the House Finance Committee this week reported a similar bill, [HB 729](#), as Inexpedient to Legislate. That bill will go to the full House next week. NHMA has expressed some concerns about both bills, but does not oppose them in principle.

Lobbying with public funds. The Senate *re-referred* [SB 158](#), the bill that would prohibit an organization (like NHMA) from using any appropriation of municipal funds to lobby or attempt to influence legislation. The Election Law and Municipal Affairs Committee will review the bill further this fall and make a recommendation for next year. NHMA opposed the bill.

Solid waste reporting. The Senate *passed* [SB 79](#), which requires municipalities to report certain information about solid waste disposal and recycling to the New Hampshire Department of Environmental Services. The bill included an amendment that DES and NHMA had endorsed. We subsequently heard from one town that even with the amendment, the town would not be able to provide some of the information required by the bill. If you have similar concerns, please let us know, as we may be able to make further changes to the bill when it gets to the House.

Health facilities licensing. The Senate *passed* [SB 97](#), relative to health facilities licensing. NHMA had opposed this bill because it would make it all but impossible to establish an urgent care or walk-in facility within 15 miles of a critical access hospital; this is of concern to municipalities because of the likely effect on health insurance costs. However, the Senate [amended the bill](#) to remove the restrictions on those facilities and instead establish a committee to study the issue. We are satisfied with that amendment.

Housing appeals board. The Senate passed [SB 306](#), establishing a housing appeals board to hear appeals of local land use board decisions on housing development projects. The bill was then immediately tabled. (See explanation under “Right-to-Know Law ombudsman,” above.) NHMA did not oppose the bill, but had expressed some concerns, most of which were addressed in an amendment.

HOUSE CALENDAR

TUESDAY, APRIL 2, 2019

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

2:00 p.m. [SB 173-FN](#), relative to criminal history background checks by employers and public agencies.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB

1:00 p.m. [SB 257-FN](#), prohibiting foams containing perfluoroalkyl chemicals for use in fighting fires.

WEDNESDAY, APRIL 3, 2019

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB

10:00 a.m. **SB 28**, relative to an active retirement system member appointment to the independent investment committee.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 307, LOB

10:00 a.m. **SB 19**, relative to the privacy of certain information concerning public employees.

11:00 a.m. **SB 18**, relative to authorized employee wage deductions.

1:00 p.m. **SB 151-FN**, establishing an administrative hearing procedure and penalty for an employer who fails to make payment of wages or who fails to secure workers' compensation coverage.

FRIDAY, APRIL 12, 2019

ASSESSING STANDARDS BOARD (RSA 21-J:14-a), Room 303, LOB

9:30 a.m. Regular meeting.

SENATE CALENDAR

TUESDAY, APRIL 2, 2019

ENERGY AND NATURAL RESOURCES, Room 103, SH

9:00 a.m. **HB 365**, relative to net energy metering limits for customer generators. **NHMA Policy.**

JUDICIARY, Room 100, SH

9:30 a.m. **HB 396-FN-L**, relative to delay or denial of records under the right-to-know law.

10:10 a.m. **HB 637-FN**, relative to criminal history background checks by employers and public agencies.

TRANSPORTATION, Room 103, LOB

1:15 p.m. **HB 391**, relative to permits for vehicle registration.

2:00 p.m. **HB 592**, relative to OHRV operation and license.

WEDNESDAY, APRIL 3, 2019

ELECTION LAW AND MUNICIPAL AFFAIRS, Room 102, LOB

9:00 a.m. **HB 128**, establishing a committee to study veterans' property tax credits and exemptions.

9:15 a.m. **HB 145**, relative to the counting of secret ballots.

9:45 a.m. **HB 146**, relative to the counting of defective ballots.

10:15 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.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 101, LOB

9:40 a.m. **HB 675-FN**, relative to the purchase of service credit in the state retirement system.

10:00 a.m. **HB 418-FN**, relative to the limitations on part-time employment under the New Hampshire retirement system.

HOUSE FLOOR ACTION

There was no House floor action for the week.

SENATE FLOOR ACTION

Wednesday, March 27, 2019

Thursday, March 28, 2019

- SB 8**, establishing an independent redistricting commission. **Passed with Amendment.**
- SB 36**, creating a cause of action for certain constitutional deprivations of right. **Passed.**
- SB 45**, relative to electioneering at polling places. **Passed.**
- SB 46**, relative to qualifications of the inspectors of election. **Re-referred.**
- SB 49**, relative to the state fire code. **Passed.**
- SB 60**, relative to advance notice to hourly employees of work schedules. **Re-referred.**
- SB 74-FN-A**, relative to register of deeds fees used to support the land and community heritage investment program (LCHIP), and establishing a committee to study the economic impact of land conservation. **Passed.**
- SB 79**, relative to required reporting on waste reduction. **Passed with Amendment.**
- SB 97**, relative to licensure of health facilities near a critical access hospital. **Passed with Amendment.**
- SB 100**, relative to discrimination in employment based on criminal background checks. **Passed with Amendment.**
- SB 103-L**, authorizing municipalities to engage in multi-town bonding projects. **Passed.**
- SB 104-L**, relative to the postponement of city, town, village, and school district elections. **Passed with Amendment.**
- SB 113**, relative to municipal authority regarding the state building code. **Re-referred.**
- SB 148**, relative to notification to public employees regarding their right to join or not join a union. **Passed with Amendment.**
- SB 152**, relative to third party inspections conducted pursuant to a planning board approval. **Re-referred.**
- SB 154**, allowing municipalities to adopt a credit against property taxes for certain workforce housing. **Passed with Amendment.**
- SB 157**, making undeclared voters eligible to be inspectors. **Re-referred.**

(Senate Floor Action— Continued from Page 7)

SB 158, relative to town and city membership in a nonprofit, nonpartisan organization and prohibiting recipients of municipal or county funds from using such funds for lobbying. **Re-referred.**

SB 159, relative to net energy metering limits for customer-generators. **Passed with Amendment. NHMA Policy.**

SB 204, relative to distributed energy resources and consumer energy storage. **Passed with Amendment.**

SB 243-FN, relative to the low and moderate income homeowners property tax relief program. **Passed; tabled.**

SB 283-FN, relative to post-election audits of electronic ballot counting devices. **Passed.**

SB 306-FN, establishing the housing appeals board. **Passed; tabled.**

SB 313-FN, establishing a citizens' right-to-know appeals commission and a right-to-know law ombudsman and making an appropriation therefor. **Passed; tabled.**

| 2019 NHMA UPCOMING EVENTS FOR MEMBERS | |
|---|--|
| Apr. 3 | Regional Workshop: RTK Law & Governmental Meetings (Berlin) |
| Apr. 10 | 2019 Local Officials Workshop (All day), Rochester |
| Apr. 16 | 2019 Local Officials Workshop (All day), Peterborough |
| Apr. 17 | Webinar: Legislative Half-time |
| Apr. 24 | NHMA/NHMLA Workshop: Exactions and Open Space |
| Apr. 26 | Local Road Regulation + Enforcement: New Hard Road to Travel |
| To register for an upcoming event, go to our website: www.nhmunicipal.org 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. | |