

LEGISLATIVE BULLETIN

Senate Begins Budget Discussions

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As we explained in last week’s *Bulletin*, the Senate Finance Committee began formal budget deliberations by introducing the Governor’s recommended budget, **HB 1** and **HB 2** as originally proposed, as non-germane amendments to other House bills currently in its possession, namely **HB 144** and **HB 517**, respectively. This was necessary because the House failed to pass the budget bills last week and tabled both **HB 1** and **HB 2**. The Finance Committee proceeded this week with testimony from the Governor’s office and various state agencies regarding the Governor’s budget and changes proposed by the House Finance Committee (but again, not passed by the House).

Revenues forecasts, particularly those based on the April business tax receipts which won’t be known until the end of the month, are a key factor in the budget process at this point. In the meantime, Senate Finance will continue discussions concerning the wants and needs of state agencies and other budget stakeholders.

House Finance Urged to Pass Wastewater Infrastructure Bill

On Tuesday, Senate leadership urged the House Finance Committee to pass **SB 57** and get it to the Governor’s desk as soon as possible. This **NHMA policy bill** appropriates state aid grant (SAG) money for 19 water and wastewater projects that were eligible for grants prior to the July 1, 2013 effective date of the current moratorium. The bill, as passed by the Senate, would fund these projects in the current state fiscal year, which ends June 30, 2017, using anticipated year-end surplus (*i.e.*, fund balance), but would schedule payments to municipalities in fiscal years 2018 and 2019.

The House Finance Committee already supported 12 of these projects in its recommended 2018-2019 budget (the projects that had originally been introduced in **HB 119**), but it recommended that the money come from the Drinking Water and Groundwater Trust Fund rather than fiscal year 2017 general fund surplus. At this week’s hearing, the committee also appeared supportive of the other nine projects contained in **SB 57**. The bill will go to House Finance Division I for further review.

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Support for Local Highway and Bridge Aid

On Tuesday the House Public Works and Highways Committee heard testimony on [SB 38](#), which provides \$36.8 million in state funding for municipal roads and bridges in addition to money already provided from the highway fund. The bill allocates \$30 million as a one-time distribution to cities and towns under the current highway block grant formula, which is based on both road mileage and population estimates, resulting in an 85% increase in highway block grant funding to each municipality in state fiscal year 2018. Municipal bridge aid of \$6.8 million would be appropriated to the existing bridge program, providing funding for an additional 8 to 10 municipal bridge projects in fiscal year 2018.

Similar to [SB 57](#) described above, the source of money for **SB 38** would be the current state fiscal year-end surplus as of June 30, 2017, but the funds would be distributed to municipalities in state fiscal year 2018. NHMA of course supported the bill. However, along with the Department of Revenue Administration, we raised a concern regarding the timing of this distribution, fearing it would be used to reduce taxes rather than expended on additional highway maintenance and construction projects as the bill requires, since most municipal budgets will already have been set by the time the bill passes, and there is no provision for local supplemental appropriations.

To address this concern, we suggested that language be added to the bill specifically treating this money as “unanticipated revenue” under RSA 31:95-b, allowing the governing body to hold a public hearing for the acceptance and expenditure of the additional funds for additional highway projects. The Department of Transportation also raised concerns about reporting requirements in the bill. We hope to see an amendment addressing both issues when the committee votes on the bill next Tuesday, April 18.

As mentioned in previous *Bulletins*, we are encouraged that the Governor, the House, and the Senate are each supportive of additional funding for local infrastructure improvements, albeit in somewhat different amounts, but all from the June 30, 2017 year-end surplus. Please urge members of the [Public Works and Highways Committee](#) to recommend Ought to Pass on **SB 38**.

Retirement Contribution on Part-Time Employees

On Wednesday the Senate Executive Departments and Administration Committee (ED&A) heard testimony on [HB 561](#), dealing with New Hampshire Retirement System (NHRS) penalties on employees and employers, and requiring employer contributions on certain part-time employees. We explained in last week’s *Bulletin* how this bill has changed since initially introduced. Supporters of the bill focused on policy issues regarding retirees returning to work, converting full-time positions to part-time, and the perceived financial impact on the NHRS. Those in opposition, including NHMA, addressed specific provisions and the negative effects adoption of the bill would have on retention of skilled workers and delivery of essential services, particularly for those employers operating 24/7 institutions, such as hospitals, nursing homes, and correctional facilities, that rely heavily on part-time workers. Even the prime sponsor of **HB 561** testified that he now has mixed feelings about the bill as it came out of the House, explaining that the original intent was for employers to pay off the unfunded liability sooner, but that the current bill is an “abominably small, trivial step” toward that goal. NHRS also raised concerns about several administrative provisions in the bill.

As we have testified on nearly every NHRS-related bill over the past three years or more, NHMA urged the committee to retain the bill and allow the issue of working after retirement to be addressed by the decennial commission. This commission will convene July 1 to review all aspects of the NHRS, and will make recommendations for legislative changes by November 1, 2017. We believe the decennial commission is the appropriate forum to address policy issues affecting all participants—employees, retirees, employers, and administrators—in the retirement system.

In fact, [HB 405](#), which has a hearing before the Senate ED&A Committee on **Wednesday, April 19, at 9:30 a.m. in LOB Room 101**, amends the duties of the decennial commission to specifically “review the effects of retirees returning to work for retirement system employers and make recommendations for legislative changes, if necessary.” We urge the committee to retain **HB 561** and allow the decennial commission to address policy issues concerning NHRS retirees returning to work.

Hearing on Voter Domicile Bill

The House committee hearing on [SB 3](#), the bill that would significantly tighten voter domicile requirements, is scheduled for next **Tuesday, April 18, at 10:00 a.m., in Representatives’ Hall at the State House**, before the House Election Law Committee.

Although this bill was improved somewhat in the Senate, we continue to have serious concerns about it, as we explained in [Legislative Bulletin #13](#). The bill’s long, complex registration form, post-election verification requirements, and confusing and conflicting provisions will likely cause delays at the polls and additional work and frustration for supervisors of the checklist and other election workers—all in pursuit of a purpose that remains unclear.

The bill’s supporters say it will address the “perception” that many people vote illegally in New Hampshire, even while acknowledging that there is little if any evidence of such activity. At the same time, they point out that it will not actually prevent anyone from voting. It therefore seems to address a problem that may or may not exist, and to make local officials do a lot more work that ultimately will not change anything.

Assuming there is a need for this bill at all, we believe it still needs significant work. We will urge the [committee](#) to either retain the bill or report it as Inexpedient to Legislate. Please contact committee members, or consider attending the hearing.

Bonding for Public Works Projects

The Senate Transportation Committee has recommended an amended version of **HB 371**, an **NHMA policy bill** that raises the dollar threshold at which a municipality must require a bond for a public works project. The existing law, RSA 447:16, requires the state or any political subdivision to obtain a bond as a condition to contracting for “the construction, repair or rebuilding of public buildings, public highways, bridges or other public works” if the contract involves an expenditure of \$35,000. That requirement, enacted years ago, has not kept up with inflation, and has been an unwelcome hurdle for many small municipal projects.

(Bonding— Continued from Page 3)

As introduced, **HB 371** would have increased the \$35,000 threshold to \$150,000. The House [amended the bill](#), actually going further than we had advocated by setting the threshold at \$75,000 for the state but making it purely optional for municipalities. That got the attention of insurance companies and large contractors, which had been relatively quiet during the House process. They objected strongly when the bill went to the Senate, and the interested parties eventually agreed on a compromise, which the Transportation Committee adopted in its [amendment](#). Under the amendment, the bonding requirement would still apply to municipalities, but the threshold would be increased to \$100,000. That is not as good as the original bill or the House version, but certainly a major improvement over the existing law. The bill as amended is on the Senate’s consent calendar for next week.

Land Use Bills in the Senate

The Senate Public and Municipal Affairs Committee acted on a number of bills in its executive session this week. None of them are likely to have a profound effect on the course of human events, but several bills will be of interest to land use boards:

Voting on variances. The committee reported [HB 86](#) as Ought to Pass with Amendment. As passed by the House, the bill requires that when a zoning board of adjustment votes on a variance application, it must vote on each of the five statutory criteria separately, and “the board shall grant a variance only if any 3 members of those present vote in the affirmative on all 5 criteria.”

Some people thought this language was less than perfectly clear: Would it require that the *same* three (or more) members vote affirmatively on all five criteria? Or could a variance be granted if each of the five criteria receives at least three votes, even if there were not three members who voted affirmatively on all five? The committee’s [amendment](#) clarifies this—the variance will be granted if “each of the 5 criteria receives at least 3 votes in the affirmative,” even if no member votes affirmatively on all five.

ADUs for condos and manufactured housing. The committee voted Ought to Pass on [HB 265](#), which cleans up some details in the law enacted last year relative to accessory dwelling units. The bill clarifies that a municipality “may prohibit accessory dwelling units associated with multiple single-family dwellings attached to each other such as townhouses, and with manufactured housing as defined in RSA 674:31.” It also provides that subsequent condominium conveyance of an ADU separate from the principal dwelling unit is prohibited unless allowed by the municipality.

Alternates for ex officio members. Getting into some of the finer details of land use boards, the committee reported [HB 514](#), dealing with alternates for ex officio members, as Ought to Pass with Amendment. The bill as passed by the House was somewhat confusing, but the Senate [amendment](#) simply clarifies that the alternate for an ex officio governing body member on a land use board shall be appointed “in the same manner and subject to the same qualifications as the ex officio member.”

Each day a separate offense. Finally, the committee reported **HB 617** as Inexpedient to Legislate. This deals with a bit of true zoning esoterica. The bill would delete the provision in RSA 676:17, I, that states that “each day that a [zoning] violation continues shall be a separate offense.” Under the existing law, if a zoning violation continues for, say, 100 days, the potential fine is \$27,500 (the statutory penalty of \$275 per day multiplied by 100), but the “separate offense” language means that it is treated as 100 separate penalties of \$275 each, rather than a single penalty of \$27,500. The significance of this is that the enforcement action may be brought in the circuit court, which has a jurisdictional limit of \$25,000.

By deleting the “separate offense” language, **HB 617** would treat the penalty as a single penalty of \$27,500, thus exceeding the circuit court’s jurisdiction and requiring that the enforcement action be brought in superior court—which is typically more costly and time-consuming. The total penalty is the same in either case; the difference is that the existing law allows the action to be brought in either circuit court or superior court. The committee concluded that the law should be left as it is and voted to recommend killing the bill.

All of these bills will go to the full Senate for action at its session next Thursday, April 20.

Committee Work on the Wane

You may have noticed that the *Legislative Bulletin’s* House and Senate calendars are getting shorter. With many bills killed during the first half of the session, there is less committee activity (aside from the state budget) during the second half. Many committees in both the House and Senate have finished their hearings for the year, and some have completed action on all of their bills.

As committee work slows, the session days become longer, especially in the Senate, as both chambers deal with the bills that have been reported out of committee. We are also entering the season of floor amendments, germane and otherwise, that can revive issues that were thought to have been put to rest. Although there may not be a lot on the calendars, there will still be plenty of activity, and a fair amount of intrigue, for the next two months.

HOUSE CALENDAR

TUESDAY, APRIL 18, 2017

ELECTION LAW, Representatives Hall, SH

10:00 a.m. **SB 3**, relative to domicile for voting purposes.

