

# LEGISLATIVE BULLETIN

## Committee of Conference Season

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June 2, 2017

We are in the period when things at the legislature can get a little confusing—or a little more confusing—for those who don’t follow it full-time. So here is a brief refresher.

The House and the Senate have each taken final action on all bills they received from the other chamber. If the House has passed a Senate bill without amendment, or if the Senate has passed a House bill without amendment, the bill will go to the Governor. If the second chamber has amended and passed a bill it received from the first chamber, the bill goes back to the first chamber, which may either concur with the amendment and send the bill to the Governor, “non-concur” and let the bill die, or non-concur and request a committee of conference. When the first chamber requests a committee of conference, the second chamber can either accede (pronounced “ack-SEED,” as we note every year at this time, with limited success) to that request and form a committee of conference, or reject the request and let the bill die.

Each chamber this week concurred with amendments from the other chamber on many bills, while committees of conference were requested on a number of others, and those committees are being formed. By next Thursday, June 8, all committees of conference will have been formed, and the committees will have until the following Thursday, June 15, to reach agreement and sign off on their recommendations to the House and Senate.

A committee of conference may agree on the House version of a bill, the Senate version, or a compromise between the two. Or it may fail to reach agreement at all, in which case the bill dies. Assuming the committee of conference reaches agreement, it reports its recommendation to both the House and the Senate, and each chamber then votes separately on the recommendation. It is an up-or-down vote, with no opportunity for amendment. If both chambers approve the committee of conference report, the bill passes and goes to the Governor; if either chamber rejects it, the bill dies.

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## Supreme Court Affirms Local Valuations of Utility Properties

In two important decisions issued this morning, [Appeal of New Hampshire Electric Cooperative](#) and [Appeal of Public Service Company](#), the New Hampshire Supreme Court affirmed decisions of the Board of Tax and Land Appeals (BTLA) that had approved municipal appraisals of utility property in the face of challenges to those appraisals in over 60 municipalities. Although we are still digesting the opinions, it is clear that they represent significant victories for the municipalities and vindication of their valuation methods.

Among other things, the utility companies had argued that the method used by the Department of Revenue Administration to appraise utility property under RSA 83-F for purposes of the statewide utility property tax was a better indicator of value than the local appraisal methods, and that the BTLA should have credited the DRA appraisals. The Supreme Court rejected that argument. In the PSNH case the court noted, “The BTLA determined that the . . . [DRA] appraisals *did not result in credible opinions of market value* . . . . The BTLA’s findings are supported by the record.” (Emphasis added.)

More specifically, the court stated, “The BTLA found that [DRA] did not provide an independent opinion of the market value of PSNH’s property in individual towns,” a failure that is inconsistent with the requirement of RSA 72:9 that utility property “be taxed in each town according to the value of that part lying within its limits.” The court also noted that DRA’s method had improperly allocated value for construction work in one town to numerous other towns, and identified other inconsistencies that “had a dramatic effect upon the values allocated to individual towns.” For example, under the DRA appraisals, “the value allocated to the Town of Whitefield increased by \$1,000,000 between 2011 and 2012 despite there being no changes to the assets located within that municipality.”

These decisions are especially important as the legislature ponders [HB 324](#), a retained bill that would require the use of DRA’s appraisal method for local property tax purposes. It is difficult to see how the legislature could justify requiring the use of a method that, at least as used in these cases, has been found significantly lacking.

## Senate Passes 2-Year Budget

On Wednesday, as the clock was nearing midnight, the Senate adopted, along party lines, the biennial operating budget in **HB 1/**[HB 144](#) and the accompanying trailer bill, **HB 2/**[HB 517](#). Despite dozens of attempts at amendments to appropriate additional funds, primarily for social service programs, the final version of both bills was nearly identical to the Senate Finance Committee’s recommended spending plan. We included in [last week's Bulletin](#) a list of items of interest to municipalities.

Both bills will go back to the House, which will likely non-concur with the Senate changes and request a committee of conference to address differences in revenue estimates and spending priorities. As noted above, June 15 is the last day to sign committee of conference reports, and the final session day is scheduled for June 22. Based on experience, we expect the midnight oil to be burning bright over the next two weeks.

## Short-Term Rental Bill to Committee of Conference

We reported in [last week's Bulletin](#) about [HB 654](#), the bill that, as passed by the Senate, would significantly restrict a municipality's ability to exercise any oversight over short-term rental operations. At the time we understood that the motion presented to the House this week would be to concur with the Senate amendment, which we vigorously opposed.

Events took a fortunate turn over the long weekend, and the motion yesterday was instead to “non-concur” and request a committee of conference. (We believe this was influenced by the concerns expressed by NHMA and local officials.) NHMA is working with other interested parties on an amendment that we hope can be accepted, and will not unreasonably restrict municipal authority. Of course, we would still prefer to see the Senate amendment withdrawn, leaving the bill as passed by the House—simply creating a committee to study the issues. However, given the Senate's position and other political realities, that is unlikely to happen.

The House approved the motion to request a committee of conference, and we expect the Senate to accede (ack-SEED) to that request, so a committee likely will be formed next Thursday. We will keep you informed.

## Highway and SAG Funding

On Thursday the House passed both [SB 38](#) and [SB 57](#), **NHMA policy bills**, by voice votes. **SB 38** provides \$36.8 million for additional highway block grant funding and bridge aid, while **SB 57** funds \$3.5 million for 19 municipal water and wastewater projects in 10 municipalities. Since these bills are funded from the anticipated June 30, 2017, general fund surplus, the municipal funding portions of the bills are effective upon passage. However, since both bills were amended slightly by the House, it is possible that the Senate may request a committee of conference on one or both bills.

## Bad News, Good News on Election Law Bills

As expected, the House yesterday passed **SB 3**, the voter domicile bill, on an almost straight party-line vote, 191-162. As we have reported, mechanical problems with the bill were largely addressed in the House, but it still contains a few inconsistencies and contradictions and is likely to be unwieldy for election officials and voters. However, we expect the Senate to concur with the House amendment and pass the bill without a committee of conference.

The House also passed **SB 113**, the **NHMA policy bill** that authorizes a trial program for electronic poll books to be used for voter check-in and registration. The bill has been significantly watered down and made subject to many conditions, to the point that we have doubts about how useful it will be—but it is at least a step in the right direction. Because the House amended the bill, the Senate will need to decide whether to concur or request a committee of conference.

## Retained Bills

As a reminder, quite a few of this session's bills of municipal interest have been “retained” in House Committees or “re-referred” in Senate committees. In the House, a retained bill will typically be referred to a subcommittee, which will study the bill and make a recommendation to the full committee; the full committee will then report the bill by November 1. Although a similar process happens

*(Retained Bills— Continued from Page 3)*

in theory with “re-referred” bills in the Senate, in practice re-referred bills frequently get little attention and receive a perfunctory committee report of Inexpedient to Legislate or Refer to Interim Study.

Committee reports on retained or re-referred bills will go to the floor of the House or Senate, respectively, in January, and action on them will then proceed in the ordinary manner. If the House has retained a House bill this year and passes it next January, it will then go to the Senate to go through the usual hearing process. If the House has retained a *Senate* bill this year and passes it next January, it will then go to the Governor (because it has already passed the Senate). Of course, if the House (or Senate) votes a retained or re-referred bill Inexpedient to Legislate, it is just as dead as if it had been killed in the first year.

A few retained bill subcommittees have already held organizational meetings, but there is unlikely to be much activity in the next few weeks, as committee of conference work will be the priority. Most legislative activity will be suspended for two months after the last session day, June 22, so there is unlikely to be any further action on retained bills until late August, at the very earliest—and more realistically, after Labor Day.

Below are some of the retained and re-referred bills that we will be following most closely. This is *by no means* an exhaustive list of all bills of municipal interest. For any retained or re-referred bill, you can learn when a committee or subcommittee will be meeting by checking the bill’s docket or the House or Senate calendar, as appropriate—but again, you may not see any activity until August or September. As always, if you have any questions, please call the NHMA staff.

Bill no.	Description	Committee
<b>Retained bills in House committees</b>		
<b>HB 182</b>	Default budget/amendment of SB 2 process	Municipal & Co. Gov’t
<b>HB 193</b>	Temporary traffic control measures	House Transportation
<b>HB 252</b>	Procedure for pro se litigants under RTK Law	House Judiciary
<b>HB 324</b>	Valuation of utility property	Science, Tech. & Energy
<b>HB 366</b>	Average final compensation for NHRS members	House ED&A
<b>HB 369</b>	Amortization period for NHRS unfunded liability	House ED&A
<b>HB 399</b>	Pesticide use in places where children play	Environment & Ag
<b>HB 413</b>	State contribution for employer share of retirement costs	House Finance
<b>HB 559</b>	RGGI distributions	Science, Tech. & Energy
<b>HB 565</b>	Delinquent taxes on manufactured housing	Municipal & Co. Gov’t

Bill no.	Description	Committee
<b>Retained bills in House committees—continued</b>		
<b>HB 579</b>	Registration of semi-trailers	House Ways & Means
<b>HB 582</b>	Inspection & licensing of bathing facilities	Resources, Rec. & Dev.
<b>HB 631</b>	Cash balance plan for NHRS members	House ED&A
<b>SB 7</b>	Eligibility for food stamps	Health, Human Serv. & EA
<b>SB 73</b>	Septic requirements for ADUs	Resources, Rec. & Dev.
<b>Re-referred bills in Senate committees</b>		
<b>HB 121</b>	Municipal transportation improvement fee	Public & Mun. Affairs
<b>HB 173</b>	Restrictions on outdoor water usage	Public & Mun. Affairs
<b>SB 47</b>	SOS investigation of election law violations	Senate Election Law
<b>SB 136</b>	Acquisition of land by federal government	Senate ED&A
<b>SB 169</b>	Agritourism	Public & Mun. Affairs
<b>SB 170</b>	Bonding for broadband infrastructure	Public & Mun. Affairs
<b>SB 172</b>	Menace dams	Public & Mun. Affairs
<b>SB 178</b>	Refunds for vehicle registration transfers	Senate Transportation
<b>SB 240</b>	Monitoring and treatment of contaminated wells	Public & Mun. Affairs

## **HOUSE FLOOR ACTION**

Thursday, June 1, 2017

**SB 3**, relative to domicile for voting purposes. **Passed with Amendment.**

**SB 38**, (2<sup>nd</sup> New Title) making an appropriation to the department of transportation for local highway aid and aid for municipal bridges. **Passed with Amendment.**

**SB 50**, relative to members of the site evaluation committee. **Inexpedient to Legislate.**

**SB 57**, (New Title) making appropriations to the department of environmental services for the purpose of funding eligible drinking water and wastewater projects under the state aid program. **Passed with Amendment.**

**SB 121**, (New Title) establishing a commission to determine whether the department of environmental services should take over the MS-4 permit system from the Environmental Protection Agency. **Passed with Amendment.**

**SB 124**, establishing a commission to study municipal regulation and incentives for solar energy. **Inexpedient to Legislate.**

**SB 113**, relative to an electronic poll book program. **Passed with Amendment.**

*(House Floor Action— Continued from Page 5)*

**SB 185**, extending the community revitalization tax relief program to coastal properties subject to storm surge, sea level rise, and extreme precipitation. **Passed.**

**SB 248**, (New Title) establishing a committee to study the rescheduling of elections. **Passed with Amendment.**

## SENATE FLOOR ACTION

Wednesday, May 31, 2017

Thursday, June 1, 2017

**HB 144**, relative to procedures for adoption of the budget for Rockingham County. HB 144, as amended, serves as the vehicle for HB 1-A. **Passed with Amendment.**

**HB 517**, relative to the function and organization of the department of administrative services risk management unit. HB 517, as amended, serves as the vehicle for HB 2-FN-A-L. **Passed with Amendment.**

**HB 170**, relative to posting notice and minutes of public meetings on the public body’s website. **Passed with Amendment.**

**HB 463**, regulating groundwater pollution caused by polluting emissions in the air and relative to standards for emerging contaminants in drinking water. **Passed.**

 <p style="font-size: small;">Please register through our website:  <a href="http://www.nhmunicipal.org">www.nhmunicipal.org</a> scroll down on the left and click View the Full Calendar</p> <p style="font-size: small;">For more information or questions, please call 1-800-852-3358, Ext. 3350.</p>	<b>UPCOMING 2017 EVENTS FOR NHMA MEMBERS</b>		
	<b>2017 Effective Approaches to Employee Discipline</b> Presented by Drummond Woodsum Law Firm (8:30 – 10:30 a.m.)		
	June 14 – Derry	June 16 – Lebanon	June 20 – Dover
	June 22 – Berlin	June 23 – Laconia	June 28 - Keene
	<b>NHMA Webinars from your own computer (12:00 – 1:00 p.m.)</b>		
	June 28 -- 2017 Legislative Wrap-up		
	July 12 -- Drones: The Sky Has Its Limits		
	August 16 -- Running Effective Public Meetings		
	September 8 9:00 a.m. – 4:00 p.m.	Right-to-Know Law Workshop Location to Be Determined	
	September 20 9:00 a.m. – 4:00 p.m.	Employment Law Update – Hot Trends and Developments	
<b>2017 NHMA Budget and Finance Workshops</b>			
September 12 – Manchester Area			
September 26 – Attitash Grand Summit Hotel, Bartlett			
October 27 9:00 a.m. – 1:00 p.m.	The Intersection of Land Use and Road Law: A New Hard Road to Travel Workshop		