

LEGISLATIVE BULLETIN

Huge Turnout Supporting Local Control For Election Postponement

Bulletin 15—2018 Session
March 30, 2018

A near-capacity crowd turned out yesterday for the House Election Law Committee hearing on [SB 438](#), regarding the authority to postpone the official ballot session of a town meeting. About 20 local officials—moderators, selectmen, clerks, and town administrators—spoke against the bill as written, including several who are also legislators. Several moderators stated that “something” needs to be done, noting two years of severe storms on Town Meeting Day and concerns about voter access and safety. Almost no one supported the bill as passed by the Senate.

The testimony reflected the passionate comments we have been hearing from local officials for months, insisting that decisions about local elections—which are not subject to regulation or oversight by any state official—should remain with local officials. Many of those testifying explained that neither the Secretary of State nor any other state official is in a position to understand the local conditions that may or may not warrant the postponing of a town election.

The NHMA-supported amendment that was rejected by the Senate was offered at the hearing. Although the amendment was not formally accepted for procedural reasons, it received significant discussion, with almost everyone who spoke supporting it. The amendment would establish a uniform procedure for postponing local elections, and would make clear the decision to postpone was the authority of the moderator.

The Deputy Secretary of State, testifying at the end of the hearing, stated that postponement because of a “statewide event” should be decided by someone at the state level, although not necessarily the Secretary of State. But he went on to suggest that for a “more local event,” it may be appropriate to let local officials make the decision, so long as there is a clear, uniform process to do so. One committee member asked whether, if the legislature ultimately decided that the decision should be left to the moderator, that would be acceptable. The Deputy Secretary said it would be, so long as the legislature established a clear, uniform process.

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That sounds like progress. Perhaps the voices of local officials are finally being heard. At the risk of seeming optimistic, there may be the opening of a path toward agreement. We look forward to working with everyone to reach a good solution.

But there is certainly a long way to go. The committee chair indicated that the bill would likely go to a subcommittee, which will not meet until the week after next. We will keep you posted. In the meantime, ***please continue to contact your representatives, especially any who are on the Election Law Committee, and tell them that decisions about local elections must be left to local officials.***

Agritourism Hearing

The House committee hearing on **SB 412** has been scheduled for next **Tuesday, April 3, at 10:00 a.m., in LOB Room 301**, before the Municipal & County Government Committee.

As passed by the Senate, the bill does two things. First, it prohibits a municipality from adopting “an ordinance, bylaw, definition, or policy regarding agritourism activities that conflicts with the definition of agritourism in RSA 21:34-a.” Second, it gives the Commissioner of Agriculture the authority to “adjudicate disputes concerning activities that constitute agritourism pursuant to RSA 21:34-a.” Any person who “fil[es] a land use application with a municipality” would be able to “petition the commissioner for a declaratory ruling regarding whether or not a municipality’s ordinance bylaw, definition, or policy regarding agritourism activities, conflicts with RSA 21:34-a.” The petition for declaratory ruling could be filed either before the person files an application with the land use board or after the board denies the application. Decisions by the commissioner could be appealed to the supreme court.

The first aspect of the bill is not particularly troubling. Current law already requires municipalities to allow agritourism activities, “as defined in RSA 21:34-a.” Even if a municipality adopts a narrower definition of agritourism, it is still required to allow agritourism as defined in the statute; so an express prohibition on adopting a conflicting definition of agritourism won’t change much. If anything, it seems that it may prohibit a municipality from adopting a broader definition of agritourism.

The more troubling part of the bill is the grant of authority to the commissioner of agriculture. As we’ve stated previously, we are not aware of any other situation in which a state executive branch official has the authority to rule on the validity of a local ordinance or policy. The commissioner is not a judge and does not have rules of procedure for deciding cases, although the bill does provide for the adoption of rules.

Further, the extremely limited jurisdiction granted to the commissioner raises a question about whether it actually accomplishes anything. The issue in most cases is not going to be about whether a town’s ordinance is consistent with the state’s definition, but about whether the applicant’s activities meet that definition.

And why provide this unusual process for one specific category of use? There are any number of other potential land uses that might be of particular interest to some state agency. Should local zoning decisions affecting forestry be appealed to the state director of forests and lands? Should

the banking commissioner have authority to overrule land use decisions regarding bank properties? Should the chairman of the liquor commission review land use decisions regarding bars and restaurants?

If you have concerns about this bill, please contact [members of the committee](#) and your own representatives.

Interest on Delinquent Taxes

In [Bulletin #14](#), [Bulletin #13](#), and [Bulletin #10](#) we explained our concerns with [HB 1673](#), which lowers the interest rates on delinquent taxes from 12% pre-lien and 18% post-lien to the rate set annually by the Department of Revenue Administration under RSA 21-J:28, II, currently 6%. While we have been urging you to contact members of the [Senate Ways and Means Committee](#) who will be voting on this bill soon, it's very important that you contact your own senator about **HB 1673** and urge him or her to oppose this bill. There is no doubt that lowering the interest rates to 6% will increase the number and dollar amount of property tax delinquencies in municipalities throughout the state. Senators need to understand the incentive that these higher interest rates create to make property tax payments a priority over other payments, such as credit card payments. As we mentioned in an earlier article, one municipality sees approximately two thirds of the delinquencies paid once the notice of impending lien (with an impending interest rate of 18%) is issued. Please let your [senator](#) know the efforts undertaken in your city or town to help residents catch up on their delinquent taxes through such options as the elderly tax deferral program, exemptions, credits, payment plans, as well as the ability for the municipality to abate taxes and/or interest for just cause, and how important it is for these situations to be handled on a case-by-case basis.

The goal in every municipality is to reduce the amount of property tax delinquencies. **HB 1673** will do the exact opposite! Please urge your senator to **kill HB 1673**.

Default Budget Bills

On Wednesday the Senate Public and Municipal Affairs Committee held a hearing on [HB 1307](#), which amends the official ballot referendum process known as SB 2 by adding a new definition of “contracts” as it pertains to the default budget, and by requiring that greater detail about the default budget be presented at the first budget hearing. We provided a lengthy explanation of **HB 1307** on page 3 of last week's [Bulletin](#). NHMA testified that we were neither thrilled with nor opposed to the bill, noting that the perennial tweaking of RSA 40:13 to deal with circumstances in a few towns or school districts affects all 151 that operate under SB 2, including those where the process is working just fine. We suggested several amendments to the bill, including changes in the default budget presentation provision in RSA 40:13, XI(a) to reflect the language that was recommended in the [committee amendment to SB 342](#) dealing with the same subject. Extensive testimony in opposition to **HB 1307** came from numerous school officials concerned with both the definition of “contracts” and the level of detail required by **HB 1307** on the default budget.

While the Senators decide what to do with **HB 1307**, the House will have its shot at the Senate's version of default budget changes. [SB 342](#) is scheduled for a hearing in the House Municipal and County Government Committee on **Tuesday, April 3 at 10:30 a.m. in LOB Room 301**. As mentioned above, we are fine with the version of **SB 342** that came out of the Senate Public and

Municipal Affairs Committee, but have concerns with the language added by a Senate floor amendment. With that amendment, the bill now requires the default budget to be reduced by the amount of any salary positions eliminated in the operating budget. Please let members of the [Municipal and County Government Committee](#) know of your concerns with **SB 342**.

Utility Valuation Moves to the Senate

HB 324, the bill NHMA supports that would establish a commission to study utility valuation, is scheduled for a hearing in the Senate next week. We are optimistic that the bill will have a smooth ride in the Senate, with no late efforts to amend it to skew the commission or to impose a utility-backed valuation method; but we will watch it closely. The hearing is before the [Ways and Means Committee](#) and is scheduled for **Wednesday, April 4, at 9:00 a.m., in State House Room 100**.

Water Quality Standards, Monitoring and Treatment

SB 309

On Tuesday, the House [Resources, Recreation and Development Committee](#) heard testimony on **SB 309** dealing with standards for perfluorochemicals in drinking water, ambient groundwater and surface water. The Department of Environmental Services (DES) testified that **HB 1101** contains critical language regarding criteria and procedures for setting drinking water and ambient groundwater quality standard that are lacking in **SB 309** and requested sections 1 and 2 of **SB 309** be amended to mirror **HB 1101**. We concur with that DES recommendation.

Section 3 of **SB 309** bill dealing with surface water drew serious concerns from DES since enactment of that section would make NH the first state to set its own surface water quality standards—and would require significant additional resources at DES. (Currently DES relies on the US Environmental Protection Agency to create surface water quality standards.) More importantly, we are concerned that, as stated in the fiscal note, the cost to municipalities for surface water quality standards and treatment could be **significant and in the millions of dollars**. A full committee work session on **SB 309** is scheduled on **Tuesday, April 3 at 11:30 a.m. in LOB Room 305-307**.

HB 1101

As mentioned above, **HB 1101** deals with drinking water and ambient groundwater quality standards as well as the impact and regulation of air contaminants on soil and water resources. Section 4 of the bill regarding establishment of maximum contaminant levels and treatment methods in drinking water requires consideration of the ability to detect contaminants, the ability to remove the contaminants and the cost to regulated water systems that will result from establishing a standard. For ambient groundwater, section 6 authorizes DES to adopt standards more stringent than federal standards or health advisories and requires that health advisories adopted as standards be reviewed by DES at least every five years to determine if revisions are necessary. A hearing on **HB 1101** is scheduled in the [Senate Energy and Natural Resources Committee](#) on **Tuesday, April 3 at 10:15 a.m. in SH Room 103**. Municipal officials concerned with the provisions in **HB 1101** are encouraged to attend the hearing or submit written comments to [committee members](#) (with a copy to NHMA).

HB 485

HB 485, also dealing with the impact of air pollutants on soil and water as well as ambient ground-water quality standards, is somewhat similar but not identical to **HB 1101**. **HB 485** passed the House last year but was retained in the House Finance Committee due to cost and other considerations. With a Finance Committee amendment, the bill passed the House in early January and is now scheduled for a hearing in the Senate Energy and Natural Resources Committee on **Tuesday, April 3 at 9:25 a.m. in SH room 103**.

SB 240

At first glance, **SB 240** relative to the monitoring and treatment of contaminated private wells, appears not to be of municipal concern since it does not apply to public water systems. However, a closer read of the bill reveals that a municipality could potentially be identified as the “responsible party” for the presence of man-made contaminants (other than road salt) in a private well, and therefore be responsible for ongoing monitoring of that well. If DES determines from such monitoring that the trend of the concentration of the contaminant is increasing and likely to exceed the ambient groundwater quality standard, the responsible party is required to provide treatment of the well or an alternative supply of drinking water. The fiscal note indicates that potential sources of such man-made contaminants include landfills, septic systems, and wastewater treatment facilities.

At a subcommittee work session this past Tuesday, an amendment was considered that would legislate a threshold of “75% of the existing groundwater quality standard” for when such monitoring shall be required. DES officials opposed having a specific threshold set in statute and offered language that would allow them to target monitoring activities and alternative treatments at locations that pose the greatest public health risks. The House [Resources, Recreations and Development Committee](#) will be voting on **SB 240** soon at an executive session of the full committee.

Delegation of NPDES Authority

On Tuesday the House Resources, Recreation and Development Committee held a hearing on **SB 450** which creates an advisory commission that would develop legislation to delegate permit authority for the National Pollutant Discharge Elimination Systems (NPDES) program from the U.S. Environmental Protection Agency to the New Hampshire Department of Environmental Services. As we explained on page 4 of [Bulletin #7](#), while there is widespread support for this delegation, it comes with a cost. This cost, and alternative methods of funding that cost, will be the focus of the commission, which must report its findings by November 1, 2019. **SB 450** came out of committee with an 18-0 recommendation of Ought to Pass (with an amendment to add one senator and two representatives to the list of commission members) and will be on the consent agenda for the next House session on April 5, 2018.

NHMA’s 2019-2020 Legislative Policy Process Starting

The first meeting of NHMA’s legislative policy committees will be Friday, April 6. Appointed and elected local officials from around the state will gather in three policy committees: Finance and Revenue, General Administration and Governance, and Infrastructure, Development, and Land Use. We thank all the volunteers who signed up for this important part of NHMA’s legislative advocacy program.

(Policy Process— Continued from Page 5)

At this meeting committee members will receive an overview of the legislative policy process and may even start to discuss legislative policy proposals for the coming biennium.

That's where **YOU—YES YOU**—come in!

Now is the time to submit any legislative policy suggestions you would like to have the committees review. Any local official can submit a policy proposal at this point in the process. [Here is a link](#) to the legislative policy proposal form that you should use to submit your proposal so we have all the information the committees need.

Do you have ideas for how local government can work more efficiently *but for* the language of a statute or an outdated law that gets in the way? Do you have suggestions for how local government can work better? Submit your ideas as a policy proposal!

Each policy committee will recommend a set of policy proposals for review by every member municipality and ultimately for consideration at the NHMA Legislative Policy Conference on September 14. We encourage your involvement.

Current Use Assessment Ranges Effective April 1, 2018

The Current Use Board recently adopted administrative rule Cub 304 establishing the following assessment ranges for land enrolled in the Current Use program, effective April 1, 2018:

Forestland Without Documented Stewardship:

White Pine	\$118 - \$177 per acre
Hardwood	\$ 54 - \$ 81 per acre
All other	\$ 37 - \$ 56 per acre

Forestland With Documented Stewardship:

White Pine	\$ 71 - \$106 per acre
Hardwood	\$ 33 - \$ 49 per acre
All other	\$ 22 - \$ 34 per acre

Unproductive Land: \$22 per acre

Wetland: \$22 per acre

Farmland remains unchanged at \$25 - \$425 per acre

HOUSE CALENDAR

TUESDAY, APRIL 3, 2018

FINANCE, Rooms 210-211, LOB

4:00 p.m. **SB 541-FN-A**, establishing a fund to reimburse costs associated with firefighters who have cancer and establishing a commission to study the funding and operations of the presumption under workers' compensation requiring the reimbursement of costs associated with firefighters who have cancer.

(House Calendar— Continued from Page 6)

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. **SB 412**, relative to agritourism.
- 10:30 a.m. **SB 342**, requiring identification of specific items in the default budget.
- 11:00 a.m. **SB 403-L**, relative to the exemption for recreational vehicles from property taxation.
- 11:30 a.m. **SB 511**, establishing an optional tax credit for combat service.

RESOURCES, RECREATION AND DEVELOPMENT, Rooms 305-307, LOB

- 2:00 p.m. **SB 453**, relative to requirements and criteria for a competitive grant program for drinking water protection.

TRANSPORTATION, Room 203, LOB

- 10:00 a.m. **SB 522**, relative to alteration of speed limits.

WEDNESDAY, APRIL 4, 2018

ENVIRONMENT AND AGRICULTURE, Rooms 301-303, LOB

- 10:00 a.m. **SB 569-FN**, relative to animal cruelty and establishing a commission to study certain Language applicable to the transfer of animals.

FRIDAY, APRIL 6, 2018

ASSESSING STANDARDS BOARD (RSA 21-J:14-a), Department of Revenue Administration, Conference Room 334, 109 Pleasant Street, Concord

- 1:00 p.m. Subcommittee meeting on utility valuation.

TUESDAY, APRIL 10, 2018

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB

- 10:45 a.m. **SB 508**, establishing a committee to study the prevalence of post-traumatic stress disorder (PTSD) and other related disorders among first responders.
- 1:30 p.m. **SB 458**, authorizing the purchase of retirement system creditable service by a certain Surviving spouse.

TRANSPORTATION, Room 203, LOB

- 10:00 a.m. **SB 512**, relative to compact sections of towns.
- 10:30 a.m. **SB 515**, relative to commemorative license plates.

FRIDAY, APRIL 13, 2018

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

- 9:00 a.m. Subcommittee meeting regarding the Assessing Reference Manual.
- 9:30 a.m. Regular meeting.

SENATE CALENDAR

TUESDAY, APRIL 3, 2018

ENERGY AND NATURAL RESOURCES, Room 103, SH

- 9:25 a.m. **HB 485-FN**, relative to standards for emerging contaminants in drinking water.
- 10:00 a.m. **HB 1766-FN**, relative to remediating the Coakley Landfill in Greenland.
- 10:15 a.m. **HB 1101-FN**, regulating groundwater pollution caused by polluting emissions in the air.

(Senate Calendar— Continued from Page 7)

FINANCE, Room 103, SH

1:45 p.m. **HB 1756-FN-A**, relative to an additional allowance and a cost of living adjustment for retirees from the state retirement system.

JUDICIARY, Room 100, SH

9:00 a.m. **HB 1627-FN**, prohibiting the transmission of images or sounds of another person who is on private property or to conduct surveillance activity.

WEDNESDAY, APRIL 4, 2018

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 101, LOB

9:35 a.m. **HB 1104-FN**, relative to dredge and fill permit time limits; relative to time limits under the administrative procedure act; and relative to online filing with the secretary of state’s office.

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

9:00 a.m. **HB 1215**, relative to voting on variances.

9:15 a.m. **HB 1216**, relative to liability for deferred property taxes and relative to applications for abatement of property taxes.

9:30 a.m. **HB 1533**, relative to termination of variances and special exceptions.

WAYS AND MEANS, Room 100, SH

9:00 a.m. **HB 324**, establishing a commission to study utility property valuation and recommend legislation to reform the current system of taxing utility property in New Hampshire.

TUESDAY, APRIL 10, 2018

ELECTION LAW AND INTERNAL AFFAIRS, Room 102, LOB

10:00 a.m. **HB 1264**, relative to construction of the terms “resident,” “inhabitant,” “residence,” and “residency.”

WEDNESDAY, APRIL 11, 2018

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

9:45 a.m. **HB 1786-L**, prohibiting costs for inspection of governmental records under the right-to-know law.

10:00 a.m. **HB 1450**, relative to retention of job applications and personnel files. **NHMA Policy.**

<u>2018</u>	<u>Upcoming NHMA Workshops and Webinars</u>
Apr. 4	NHMA Webinar—Legislative Half-Time
Apr. 9	2018 Local Officials Workshop—Grantham Town Hall
Apr. 11	NHMA Webinar—Nonpublic Sessions and the Right-to-Know Law
Apr. 16	2018 Local Officials Workshop—Peterborough Community Center
Please register online through our website: www.nhmunicipal.org . (Scroll down on left to Calendar of Events and click View the Full Calendar)	