

LEGISLATIVE BULLETIN

Work Session Wednesday on Town Meeting Bill

The House Election Law Committee has scheduled a full-committee work session on **SB 438**, the bill dealing with postponement of town elections. As we reported last week, many local officials testified against the bill at the committee hearing, with almost everyone urging the committee to preserve the moderator’s authority to postpone either or both sessions of the town meeting when there is an emergency.

We also noted that the Deputy Secretary of State seemed to acknowledge at the hearing that for something less than a “statewide event,” it may be appropriate to let local officials make the decision to postpone, so long as there is a clear, uniform process for doing so. We hope this suggests some movement toward a compromise. We are working on an amendment that would give state officials a role when there is a statewide emergency, but otherwise would preserve the moderator’s authority.

The work session is scheduled for next **Wednesday, April 11, at 12:30 p.m., in LOB Room 308**. Although this is not a public hearing, all interested local officials are encouraged to attend. In the meantime, *please continue to tell your representatives that the bill as passed by the Senate is not acceptable*, and urge them to oppose the bill unless an acceptable amendment is approved.

Interest on Delinquent Taxes

If you haven’t already, please contact your [senator](#), particularly if he or she is a member of the [Senate Ways and Means Committee](#), about [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%. We have written extensively about this bill in [Bulletin #15](#), [Bulletin # 14](#), [Bulletin #13](#), and [Bulletin #10](#), and about the importance of maintaining the incentive that these higher interest rates create to make property tax payments a priority over other payments, such as credit card payments. While we continue to talk with senators, it’s vital that they hear from their constituent municipalities about your efforts to help taxpayers meet their tax obligations. Please urge your senator to prevent an increase in tax delinquencies by *killing HB 1673*.

Bulletin 16—2018 Session
April 6, 2018

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Working After Retirement

We last wrote about [HB 561](#), dealing with NH Retirement System (NHRS) retirees returning to work in part-time positions, in [Bulletin #9](#). As you may recall, **HB 561** passed the Senate in mid-February. As amended by the Senate, it does the following:

- lowers the number of hours an NHRS retiree can work part-time for an NHRS employer to 1,300 per year (an average of 25 hours per week);
- imposes a surcharge on the total compensation paid to a retiree (3% charged to the retiree and 5% charged to the employer) if the hours worked in a calendar year exceed 1,300;
- institutes a significant penalty if the yearly hours worked by the retiree exceed 1,300 (or exceed 1,600 if the employer provided prior notification to NHRS that annual hours will be more than 1,300);
- requires a 28-day waiting period from the date of retirement before a retiree can be employed again by any NHRS employer; and
- grandfathers current retirees, but only in their current part-time positions.

On Thursday, the House “non-concurred” with the Senate amendments to **HB 561** and requested a committee of conference. The [House version](#) of the bill, which passed last year, deals not only with retirees, but with part-time positions in general, and does the following::

- suspends a retiree’s pension benefits if part-time work exceeds the statutory limit of 32 hours per week or 1,300 hours per calendar year;
- authorizes NHRS to assess a penalty on the employer of three times the suspended pension amount if the employer knew that the hours were exceeded;
- authorizes the executive director of NHRS to waive the penalty for good cause;
- **requires employers to pay the unfunded liability portion of the employer rates on part-time employees (1) when an employer converts or replaces a full-time position with one or more part-time positions within 12 months of a position becoming vacant, or (2) when an employer fills a full-time position with an interim, temporary, or part-time employee within 12 months;**
- requires employers to provide notice to NHRS within 30 days after a full-time position is changed to part-time.

NHMA believes there are significant issues with both the House version and the Senate version, and we urge the committee of conference to study the issues further or reject both versions. We understand that NHRS has a number of administrative and technical issues with both versions of the bill, which may be difficult to resolve, so we are not making any predictions as to the final outcome of this one. A meeting of the committee of conference has not been scheduled yet, but it could happen at any time, so please talk to your legislators—senator and representatives—soon.

Right-to-Know Law Bills Still Alive

Hearings on several troublesome Right-to-Know Law bills are scheduled in various committees next week:

Records of non-meetings. [HB 1579](#) would require that records be kept of certain “non-meetings” of a public body—specifically, strategy or negotiations with respect to collective bargaining, and consultations with legal counsel. The records to be kept would include the specific

exemption under RSA 91-A:2 that is relied upon, the names of members present, names of persons appearing before the body, meeting place, and times that the gathering began and ended.

As we've stated before, we don't see what purpose is served by this requirement. Another administrative burden would be placed on the public body, and the public would be informed that something happened, but would have no idea what. This fails a basic cost-benefit analysis.

We've also noted before that the bill exempts the one other type of "non-meeting" that occurs regularly—political caucuses in the legislature. This exemption from the Right-to-Know Law enables a majority of the House or Senate, or of any committee, to discuss and make decisions on whatever they want, as long as they are all members of the same political party. That may be fine, but if the legislature is not required to keep records of its non-meetings, why should it require municipal boards to do so?

The hearing on **HB 1579** is scheduled for **Wednesday, April 11, at 10:15 a.m., in LOB Room 102**, before the [Public and Municipal Affairs Committee](#)

Contents of minutes. **HB 1347** would require that meeting minutes of public bodies record "the names of the members who made or seconded each motion and the substance, in brief, of comments made during deliberations." Again, the primary result of this would be to make more work for public bodies, and we question whether the additional information provides any real benefit to those reading the minutes. Boards often move through their business quickly, leaving even skilled minute-takers struggling to keep up. Any selectman or other local official who has ever tried to stretch a budget to pay a minute taker know how difficult it is to get generally accurate minutes that meet the requirements of the existing law. Now, the minutes would also need to identify who made and seconded every motion and record the substance of all comments made?

Notably, this bill does not exempt the legislature. So, under the bill, the House and Senate Journals would have to record who made and seconded every motion. As it is, most motions on the House and Senate floor do not require a second—would **HB 1347** change that? House rules do require that a motion for a roll call vote be seconded by at least ten members. Under **HB 1347**, the House clerk would have to record the names of all those who rise to second the motion. And the clerks in both chambers would need to record "the substance, in brief, of comments made during deliberations." Perhaps this bill ought to contain an appropriation, because if it passes, some legislative employees are going to be working a lot more hours!

The hearing on **HB 1347** is scheduled for **Tuesday, April 10, at 9:15 a.m., in State House Room 100**, before the [Senate Judiciary Committee](#).

Collective bargaining negotiations revisited. Readers may recall that the House Judiciary Committee several weeks ago recommended passage of a bill, **HB 1344**, that would have repealed the exemption from the Right-to-Know Law's public meeting requirements for collective bargaining negotiations. After significant opposition from both public employers and public employees, the House overturned the committee's recommendation and killed the bill soundly. **HB 1344** is now safely out of the way, but the Senate has passed an identical bill, **SB 420**, which is now in the House. The bill is the same, verbatim, as **HB 1344**, so we are optimistic that it will ultimately meet the same fate.

SB 420 is in the same committee, [House Judiciary](#), that recommended **HB 1344**. We hope committee members will recall the 189-125 vote to defeat **HB 1344** and conclude that there is no point in trying again with **SB 420**. The hearing on **SB 420** is scheduled for **Wednesday, April 11, at 10:00 a.m. in LOB Room 208**.

Water Quality Standards, Monitoring and Treatment

SB 309 and HB 1101

On Tuesday, the House Resources, Recreation and Development Committee recommended Ought to Pass by a vote of 12-1 on an [amendment](#) to **SB 309**, dealing with standards for per-flourochemicals in drinking water, ambient ground water, and surface water. As explained in last week's [Bulletin](#), we were very concerned about the significant costs associated with the surface water section of the bill. The amendment changes that section from requiring that surface water standards be established by the Department of Environmental Services (DES) by January 1, 2020, to a requirement that DES, in consultation with stakeholders, develop and present a plan by that date that includes schedules and cost estimates for establishing surface water quality standards. Additionally, the amendment changes sections 1 and 2 of **SB 309** to reflect the identical language the House approved in [HB 1101](#), dealing with drinking water and ambient groundwater quality standards.

Also on Tuesday, the Senate Energy and Natural Resources Committee held a hearing on **HB 1101**. While we don't know this for sure, it is very possible that **HB 1101** may be amended to reflect what the Senate passed in **SB 309**. What often happens when each body adopts its own version of a bill is that the final resolution comes out of committees of conference. We sense this is where these two bills are heading.

SB 240

On Tuesday, the House Resources, Recreation and Development Committee discussed two amendments to [SB 240](#), dealing with monitoring and treatment of contaminated wells. One amendment establishes a threshold of "75% of the existing groundwater quality standard" for when monitoring shall be required. The other allows DES to target monitoring activities and alternative treatments at locations that pose the greatest public health risks. In either case, if a responsible party is identified, DES can require that party to monitor the contamination and in certain circumstances provide treatment or an alternative drinking water supply. As noted in last week's [Bulletin](#), 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 along with treatment or an alternative supply of drinking water. There are a lot of concerns with **SB 240** and the proposed amendments, such as the definition of "man-made contaminants" and the determination of a "responsible party." Please let members of the [Resources, Recreation and Development Committee](#) know of your concerns with **SB 240**.

Retention of Personnel Files

HB 1450 is an **NHMA policy bill** that would shorten the period that municipal personnel files are required to be retained to 10 years after retirement or termination. The current requirement is **50** years after retirement or termination. We're not sure who ever imagined that requiring the retention of these records for 50 years made sense. But the excessiveness of the requirement recently became clear to several legislators, who filed two competing bills to address the issue; one would have reduced the period to 25 years, and the other, **HB 1450**, makes it 10 years.

HB 1450 got a unanimous committee endorsement in the House and passed on the consent calendar. We hope it will get similar treatment in the Senate. It is scheduled for a hearing before the [Public and Municipal Affairs Committee](#) next **Wednesday, April 11, at 10:00 a.m., in LOB Room 102.**

Presumption Funding

On Tuesday, the House Finance Committee heard testimony on **SB 541**, which creates a process for state funding of the provision of the workers' compensation statute (RSA 281-A:17) that provides a presumption related to cancer in firefighters. The bill, as originally introduced, identified a funding source, but that section was removed by the Senate, which instead established a committee to study:

- (1) The costs that have been incurred to date under RSA 281-A:17.
- (2) How to determine conclusively that the cancer is occupationally related.
- (3) Reasonable methods and practices to screen out non-occupationally related cancers that are a result of other causes, such as other employment, genetics, and lifestyle choices made before, during, and after service.
- (4) The annual costs to provide physicals and the additional workers' compensation coverage and how they should be funded.
- (5) An appropriate, stable, and long-term funding mechanism and the costs of administering the funding mechanism.
- (6) Whether the funding mechanism should include an assessment against carriers issuing certain insurance policies.
- (7) Any other issues applicable to the subject matter of RSA 281-A:17.

NHMA is closely monitoring this bill, and we specifically note our discomfort with the provision that the fund to be created "shall be ... used for the sole purpose of **reimbursing costs** [of municipalities] associated with medical physicals under subparagraph II(b) and additional costs in workers' compensation coverage." Past agreements by the state to reimburse municipalities for various things—*e.g.*, lost local tax revenue due to state tax reforms and bond payments for updates to waste water treatment facilities, to name just two—have not worked out so well for municipalities!

There will be a work session on the bill in Division I of the House Finance Committee on **Tuesday, April 10, at 10:00 am in LOB Room 212.**

The Grab Bag

In other action this week:

Housing appeals board bill vacated. [SB 557](#), the bill that creates a separate board to hear appeals from local land use boards dealing with housing, had originally been scheduled for a hearing in the House Judiciary Committee this week. That hearing was cancelled, and yesterday the bill was vacated from the Judiciary Committee and referred to the House Finance Committee. This was surprising, as a bill like this—which creates a new policy and also involves an appropriation of state funds—would ordinarily go first to the policy committee and then to the Finance Committee. But the deadline for policy committees to act on bills going to a second committee was yesterday, so apparently the process had to be abridged. We're not sure what happened, but presumably the bill will be scheduled for a hearing in the Finance Committee in the near future.

Committee recommends RTK ombudsman bill. The House Judiciary Committee voted Ought to Pass on [SB 555](#), which creates an office of the ombudsman to hear and rule on complaints filed under the Right-to-Know Law. We have written about this bill frequently in previous *Bulletins*. The bill will go to the full House for a vote next week.

Fire marshal's arrest powers preserved. The House killed [SB 55](#), which originally dealt with servicing of backflow devices, but was amended in the Senate to eliminate the state fire marshal's authority to make arrests. This had caused concern for local police and code enforcement departments, which do not necessarily have the resources or expertise to investigate and make arrests for arson and related crimes.

Rope dancers and ventriloquists must still be licensed. The Senate killed [HB 1676](#), which would have repealed RSA 286:1 and 286:6-11. The former requires a license from the selectmen before any "showman, tumbler, rope dancer, ventriloquist or other person" may, for pay, "exhibit any feats of agility, horsemanship, sleight of hand, rope dancing or feats with cards, or any animals, wax figures, puppets or other show, or promote any public competition." The latter provides for local licensing of billiard tables, pool tables, and bowling alleys.

Apart from being one of our favorite 19th-century laws, this statute is still used occasionally by some municipalities. Twenty-first century New Hampshire may have more pressing concerns than traveling ventriloquists, but the licensing statute can be useful when a town, especially one without a zoning ordinance, needs to keep tabs on public entertainment events. In the January crush, we never made it to the House hearing on this bill, so we were glad to be able to get to it in the Senate, and are pleased that the Senate killed the bill.

Do You Have Any Policy Ideas?

NHMA's Legislative Policy Committees began the process of establishing legislative policy for the next biennium (2019-2020) on Friday, April 6. 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. ***The deadline to submit policy ideas is April 20.***

(Policy Ideas— Continued from Page 6)

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.

HOUSE CALENDAR

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.

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.

WEDNESDAY, APRIL 11, 2018

ENVIRONMENT AND AGRICULTURE, Room 201-203, LOB

9:00 a.m. Continued public hearing on **SB 569-FN**, relative to animal cruelty and establishing a commission to study certain language applicable to the transfer of animals.

JUDICIARY, Room 208, LOB

10:00 a.m. **SB 420**, relative to collective bargaining under the right-to-know law.

FRIDAY, APRIL 13, 2018

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

9:30 a.m. Regular meeting.

SENATE CALENDAR

TUESDAY, APRIL 10, 2018

ENERGY AND NATURAL RESOURCES, Room 103, SH

9:30 a.m. **HB 1402**, relative to ordinances regarding forestry activities.

9:50 a.m. **HB 1810**, establishing a commission to study the effectiveness of the current statutes related to management of non-tidal public water ways and the construction or placement of structures within them.

10:00 a.m. **HB 1592-FN**, requiring the commissioner of the department of environmental services to review standards relative to arsenic contamination in drinking water.

JUDICIARY, Room 100, SH

9:15 a.m. **HB 1347**, relative to information to be included in the minutes under the right-to-know law.

TRANSPORTATION, Room 103, LOB

- 1:15 p.m. **HB 1763-FN-A**, establishing a road usage fee and making an appropriation therefor.
1:30 p.m. **HB 2018**, relative to the state 10-year transportation improvement program.

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**.
10:15 a.m. **HB 1579-FN**, requiring records to be kept for certain exempt convenings under the right-to-know law.

HOUSE FLOOR ACTION

Thursday, April 5, 2018

SB 55, (New Title) relative to the servicing of backflow devices and arrest powers of fire marshals. **Inexpedient to Legislate.**

SB 328, relative to attorney general membership on certain committees and repealing the criminal justice information system. **Passed.**

SB 336, relative to the judicial district for the towns of Waterville and Livermore. **Passed with Amendment.**

SB 340, (New Title) relative to the commissioner of revenue administration's assessment report. **Passed.**

SB 386, relative to access to criminal records. **Passed; referred to ED&A-H.**

SB 443, relative to the jurisdiction of counties concerning retail electric supply. **Passed with Amendment; referred to ST&E.**

SB 450-FN-A, establishing an advisory commission for the department of environmental services relative to the delegation of authority of the National Pollutant Discharge Elimination System Program. **Passed with Amendment; referred to F-H.**

SB 471, relative to the authority of municipalities to address potential natural threats. **Passed.**

SB 528-FN-LOCAL, relative to dam registration fees and relative to permit fees for constructing or reconstructing a dam. **Interim Study.**

SB 529-FN, (New Title) requiring the department of environmental services to conduct a study regarding the Baker River in the town of Warren and making an appropriation for such study. **Inexpedient to Legislate.**

(House Floor Action— Continued from Page 8)

SB 561-FN, (Second New Title) naming a bridge over the Little River between the towns of Plaistow and Atkinson the Lance Corporal Dimitrios Gavriel bridge. **Passed.**

SB 565-FN, relative to aircraft registration fees and airways tolls. **Passed with Amendment; referred to F-H.**

SB 579-FN, relative to penalties for welfare fraud. **Passed.**

SENATE FLOOR ACTION

Thursday, April 5, 2018

HB 193, relative to traffic control measures. **Interim Study.**

HB 492, relative to electric personal assistive mobility devices. **Passed.**

HB 1202-L, relative to town revolving funds for group net metering. **Passed.**

HB 1227, relative to an unattended idling vehicle on private property. **Passed.**


HB 1303, relative to the purposes of revolving funds in towns. **Passed.**

HB 1421-FN, relative to the regulation of event tents. **Passed.**

HB 1441-FN, establishing the office of the ombudsman in the department of state. **Inexpedient to Legislate.**

HB 1676-FN, repealing the licensing requirement for open-air shows and repealing the laws related to the keeping of billiard tables. **Inexpedient to Legislate.**

HB 1823-FN, relative to layered amortization of retirement system liabilities. **Passed.**



<u>2018</u>	<u>Upcoming NHMA Workshops and Webinars</u>
Apr. 11	NHMA Webinar—Nonpublic Sessions and the Right-to-Know Law
Apr. 16	2018 Local Officials Workshop—Peterborough Community Center
Apr. 27	Stranger Streets: A New Hard Road to Travel Workshop
May 15	2018 Local Officials Workshop—Moultonborough Safety Complex

Please register online through our website: www.nhmunicipal.org
(Scroll down on left to Calendar of Events and click View the Full Calendar)

