

LEGISLATIVE BULLETIN

Public Hearings on FY 18/19 Operating Budget

The House Finance Committee will be holding three public hearings on the Governor’s proposed biennial operating budget as currently contained in [HB 1](#) and [HB 2](#) (the so-called “trailer bill” which contains the statutory changes necessary to implement the budget). Public hearings on **HB 1** and **HB 2** will be held:

- **Monday, March 6, at 4:30 p.m., at the Derry Town Hall,**
- **Monday, March 6, at 5:30 p.m., at the Silver Center for the Arts, Plymouth State University, Plymouth, and**
- **Monday, March 13, at 3:00 p.m., in Representatives’ Hall, State House, Concord.**

Since Governor Sununu presented his proposed budget to the legislature in early February, the House Finance Committee has been meeting with state agencies to obtain a better understanding of what is included, or not included, in the budget, and over the next several weeks will be proposing amendments to **HB 1** and **HB 2** to reflect the House spending priorities and revenue projections.

As we described in [Legislative Bulletin #7](#), the catch-up formula under the meals and rooms tax distribution is suspended in the Governor’s budget, resulting in level funding of \$68.8 million in each year of the upcoming biennium. Based on the Governor’s estimated meals and rooms tax revenues for fiscal years 2018-2019, this would place the municipal percentage in the low 20% range compared to the statutory provision requiring that 40% of the tax revenue go to municipalities.

Revenue sharing is suspended again, and there is no state funding toward the retirement costs for teachers, police, and firefighters in the Governor’s budget. The moratorium on state aid grants for water and wastewater projects is continued, with funding provided only for those projects approved locally prior to December 2008 that have already received Governor and Executive Council approval.

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Funding for highway block grants is down slightly from the fiscal year 2017 budget, and municipal bridge aid is flat-funded at \$6.8 million, despite the existence of 350+ municipal red-listed bridges (bridges that are structurally deficient or functionally obsolete) and nearly a 10-year waiting list for state aid. There is \$0 and \$900,000 budgeted in fiscal years 2018 and 2019, respectively, for construction aid, which provides funding for improvements where state and local roads intersect, compared to \$1.7 million each year in 2016 and 2017. The Governor's proposed "Infrastructure Revitalization Fund," described in section 64 on page 55 of [HB 2](#), intends to provide additional aid for state and local roads and bridges, school building needs, and "other" programs, but does not specify any dollar amounts. Money for this fund will come from operating budget surplus at June 30, 2017, projected by the Governor to be \$84 million, but we are currently hearing mixed messages about the amount of the projected surplus, if any.

We have updated several of the graphs contained in our [State Aid to Municipalities: History and Trends](#) booklet by including the Governor's proposed budget figures for fiscal years 2018 and 2019. The updated graphs, available [here](#), include the overall state aid to municipalities, the environmental grants (for water and wastewater projects), the meals and rooms tax distribution percentages, total highway funding, and the graph showing the increases in employers' pension contribution rates.

Finally, to counter several recent remarks that there is really "nothing the state can do to help lower property taxes," the NHMA Board of Directors endorsed a [letter](#) sent yesterday to every representative outlining the significant impact state budgetary decisions have on local property taxes.

Using this information, please follow up with your representatives to explain the specific effects that cuts in state aid have had in your municipality. Urge your representatives, particularly those on the [House Finance Committee](#), to—at a minimum—maintain the catch-up formula under the meals and rooms tax distribution, support the House policy position in **HB 413** for restoring some portion of the state retirement contribution, and provide funding that reflects a commitment to the state/local partnership for infrastructure improvements that are so important to the health and economic vitality of our communities and the state.

House Voting (Again, Maybe) on Right-to-Know Bills

Two bad bills amending the Right-to-Know Law will come before the House when it meets next **Wednesday, March 8**.

THE EDGE

It's the most wonderful time of the year—town meeting season! In celebration, we have prepared a little quiz about this form of government. We doubt that anyone can answer all of these questions without some research (we couldn't), so consider it an open-book exam.

If you believe you have the correct answers to all questions, feel free to e-mail us at governmentaffairs@nhmunicipal.org. There is no prize, but if you get all of the answers correct, we will e-mail you back and tell you how smart you are.

Answers will appear in next week's *Bulletin*.

1. A town with a traditional town meeting is considering each of the measures listed below. By law, three of the questions must be placed on the official ballot. Which one is not required (or even permitted) to be placed on the official ballot?

- a. Changing the size of the board of selectmen
- b. Adoption of the town manager plan
- c. Adoption of the dog control law
- d. Adoption of a local tax cap

2. Only three towns have adopted the SB 2 (official ballot referendum) form of town meeting and subsequently rescinded it. What are they?

Continued on next page

Attorney fees. As we mentioned last time, a notice of reconsideration has been filed on [HB 365](#), the bill that would award attorney fees to a prevailing plaintiff in a Right-to-Know lawsuit, even if the defendant (often a municipality) had no reason to know it was violating the law. The bill had been given its last rites on February 16, after the House voted down a committee recommendation of Ought to Pass and then voted the bill Inexpedient to Legislate; but the notice of reconsideration could give it a second life. Although the ITL motion passed by a comfortable 207-166 vote, the margin on the first vote—on the committee’s recommendation of Ought to Pass—was dangerously close, at 184-187.

Because no notice of reconsideration was filed on the Ought to Pass vote, we believe it is too late to reconsider that 184-187 vote—but we have heard different opinions on that, and we’re not in charge of the rules. ***Municipal officials, please let your representatives know that this issue is not dead, and they should watch carefully for the motion to reconsider. Urge them to preserve the good decision they have already made and vote down any motion to reconsider on HB 365.***

Remote participation in meetings. Also on Wednesday, the House will take up [HB 524](#), which amends the provision of the Right-to-Know Law that allows a member of a public body to participate in a meeting by conference call or similar means. Under the existing law, a member may participate remotely when his or her attendance “is not reasonably practical,” subject to several conditions. However, that person’s participation may not be counted toward a quorum—a quorum of the public body must be physically present at the meeting’s location—*except in an emergency*. The statute defines “emergency” as a situation in which “immediate action is imperative and the physical presence of a quorum is not reasonably practical within the period of time requiring action.”

As introduced, [HB 524](#) would have deleted the emergency exception, thus requiring that a quorum be physically present in all circumstances. By a 9-8 vote, the House Judiciary Committee has recommended the bill as Ought to Pass with Amendment. Under [the amendment](#), the emergency exception is preserved, but the definition of an “emergency” is limited to a situation where “there is immediate peril to the public health or safety and . . . immediate action is imperative.” This would exclude any number of situations that almost anyone would consider an emergency: the moderator has resigned the day before town meeting, or the treasurer has embezzled \$1 million and is on the lam, or the roof blew off the town hall. In any of these situations, if a quorum could not be assembled in one place, the meeting would just have to wait.

THE EDGE (Continued)

3. What action that is specifically authorized to be taken by a town or school district meeting would be a violation of the Right-to-Know Law if it were taken by another local legislative body, such as a town or city council or board of aldermen?

4. What is the largest town, by population, in the state that has a traditional town meeting (*i.e.*, no charter and no SB 2)?

- a. Hanover
- b. Hollis
- c. Exeter
- d. Amherst
- e. Bow

5. What is the penalty for failure of a town meeting participant to be silent at the request of the moderator?

6. What is the only day on which a special town meeting may not be held?

7. Most people in an SB 2 town understand that if the proposed operating budget is not adopted, the default budget automatically takes effect; but that is not exactly true. Why not?

8. Other than the issuance of notes or bonds, identify one town meeting action that requires a two-thirds majority vote for approval. (There are several.)



(Right-to-Know— Continued from Page 3)

The stated justification for this bill was that the sole sponsor witnessed *one perceived abuse* of the law—not by a municipal body, by the way. That does not seem to warrant hamstringing local boards in their ability to take action in emergencies. The committee report (again, adopted by a slim 9-8 majority) states incorrectly, “Currently the word ‘emergency’ is undefined . . . and can be used to justify operating without a quorum for any reason.” As stated above, the existing law does define “emergency.” It is broad enough to provide needed flexibility, but narrow enough to ensure that this exception is rarely used. ***Please urge your representatives to vote down the committee’s recommendation and kill HB 524.***

Senate to Vote on Broadband Bill

As a reminder, the Senate will vote next **Thursday, March 9**, on **SB 170**, the **NHMA policy bill** authorizing municipalities to issue bonds for broadband infrastructure. Although the Public and Municipal Affairs Committee recommended killing the bill, the bill’s sponsor has proposed an amendment stating that a bond may be issued only “when operation or maintenance is open to a competitive proposal process that allows commercial broadband providers to contract with the municipality for services.” That amendment addresses the telecommunications industry’s longstanding objection that municipalities do not know how to operate a broadband network and should not be allowed to compete with private industry. Under the amendment, the municipality would *not* be operating a network or competing with private industry—it would merely be providing the infrastructure to allow a private company to provide the service.

The industry apparently still opposes the bill, even with the amendment. We can only interpret the continued opposition as indicating that the industry simply does not want some New Hampshire residents to have high-speed internet. We hope the Senate will not agree with that position. ***Please urge your senator to reject the committee report on HB 170 and support the bill with the sponsor’s amendment.***

Retirement Contribution Bill Still Under Consideration for Budget

On Tuesday the House Finance Committee’s 10-member Division I met for a *very brief* work session on **HB 413**, relative to restoring payment by the state of 15% of retirement contributions of political subdivision employers. As you know from reading prior issues of the *Legislative Bulletin*, the state payment was 35% from 1977 until it was dropped to 30% in 2010, 25% in 2011, \$3.5 million in 2012, and then eliminated in 2013. You also know from reading the *Bulletin* that **HB 413** was recommended Ought to Pass by the policy committee—Executive Departments and Administration—and passed the House by a *strong* 267-83 roll call vote.

It soon became clear why Division I was meeting for such a short time on the bill: the Ways & Means Committee had not yet settled on the revenue estimates, the division chair explained, and those estimates are a necessary step in putting together the House budget proposal. The division, and the Finance Committee, want to be able to review the provisions of **HB 413** for possible inclusion in the budget, but must wait for the revenue estimates to see what funds are available. They did not want to kill **HB 413**, so they unanimously voted to retain the bill, which will allow them the opportunity to bring up the issue of restoring a state contribution to local retirement costs once they have more information.

(Retirement Contribution— Continued from Page 4)

The Division I recommendation now goes to the full Finance Committee, which has the authority to retain the bill without the need for another vote by the full House. We are pleased that Division I opted to retain the bill and that the restoration of a state retirement contribution toward local costs is still in play for the budget discussions. Stay tuned....

Semi-Trailer Registration Fees

[HB 579](#), dealing with out-of-state semi-trailer registrations by non-government agents, has a hearing scheduled in the House Ways and Means Committee on **Tuesday, March 7, at 1:30 p.m., in LOB Room 202**. As we have explained in previous *Bulletins*, this bill raises concerns about the potential loss of municipal registration fees and is opposed by the New Hampshire Division of Motor Vehicles, the New Hampshire City and Town Clerks Association, the New Hampshire Tax Collectors Association, and NHMA. Please let members of the [House Ways and Means Committee](#) know of your concerns with **HB 579**.

Federal Issues Paper

Although NHMA's legislative advocacy efforts focus primarily on state government, we work with federal legislators when necessary and as time permits. As part of our federal efforts, we periodically collaborate with municipal leagues in the other New England states and New York on issues that are of common concern.

Together with those organizations, we recently prepared a [federal issues paper](#) discussing the importance to municipalities of continued support for federal infrastructure programs and policies such as the Community Development Block Grant program, tax-exempt status for municipal bonds, and funding for transportation, wastewater, and broadband infrastructure. The letter will be distributed to United States Representatives and Senators from the seven states.

HOUSE CALENDAR

MONDAY, MARCH 6, 2017

FINANCE, Derry Town Hall, Derry

4:30 p.m. **HB 1-A**, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2018 and June 30, 2019; HB 2-FN-A-L, relative to state fees, funds, revenues, and expenditures.

FINANCE, Silver Center for the Arts, Plymouth State University, Plymouth

5:30 p.m. **HB 1-A**, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2018 and June 30, 2019; HB 2-FN-A-L, relative to state fees, funds, revenues, and expenditures.

TUESDAY, MARCH 1, 2017

WAYS AND MEANS, Room 202, LOB

10:00 a.m. **HB 380-FN**, relative to the oil discharge and disposal cleanup fund.
11:00 a.m. **HB 568-FN**, relative to the taxability of lease interests in public property.
1:30 p.m. **HB 579-FN**, relative to registration of semi-trailers.

(House Calendar— Continued from Page 5)

MONDAY, MARCH 13, 2017

FINANCE, Representatives' Hall

3:00 p.m. **HB 1-A**, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2018 and June 30, 2019.

THURSDAY, MARCH 16, 2017

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

10:30 a.m. **HB 25.-FN-A**, making appropriations for capital improvements.

SENATE CALENDAR

TUESDAY, MARCH 7, 2017

ELECTION LAW AND INTERNAL AFFAIRS, Room 102, LOB

10:00 a.m. **SB 3**, relative to domicile for voting purposes. and proposed amendment #2017-0478s.

WEDNESDAY, MARCH 8, 2017

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 101, LOB

9:30 a.m. **SB 136**, eliminating the land use board and requiring approval of federal land acquisitions by the governor and council.

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

9:05 a.m. **HB 87**, relative to vacancies in the office of moderator.

9:15 a.m. **HB 86**, relative to voting on variances.

9:30 a.m. **HB 299**, relative to notice by mail for zoning and planning purposes.

9:45 a.m. **HB 123**, relative to continuation of a public hearing of the zoning board of adjustment.

10:00 a.m. **HB 108**, relative to municipal record retention and conversion.

WEDNESDAY, MARCH 15, 2017

PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

9:00 a.m. **HB 89**, relative to municipal revolving funds.

9:15 a.m. **HB 117**, relative to the property tax exemption for improvements to assist persons with disabilities.

Upcoming Events for NHMA Members

Please visit our [website](#) for upcoming NHMA events.

See CALENDAR OF EVENTS on the left and click *View the Full Calendar*:
scroll down to the event you are interested in to register.

For more information, contact us by phone at 1-800-852-3358, Ext. 3350 or email us
at NHMAregistrations@nhmunicipal.org