

# LEGISLATIVE BULLETIN

## House Fails to Adopt Budget

Bulletin 15 - 2017 Session  
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As we reported in last week’s *Bulletin*, there was much for municipalities to be pleased with in the **HB 1** and **HB 2** biennial budget proposed by the House Finance Committee for adoption by the full House this week, including \$50 million in municipal aid for property tax relief, an additional \$30 million for roads and bridges, full funding for flood control, and additional funding for wastewater grants. However, on Wednesday and Thursday, the House failed to garner the simple majority vote needed to pass the Finance Committee’s recommended budget, or any other budget proposal.

The committee recommendation failed by a vote of 134-220. Subsequently, a more conservative budget proposal was put forth that would have adopted the committee’s recommendation but with a “back of the budget” footnote requiring the Governor to cut \$200 million. That proposal failed by a vote of 75-282.

A third proposal sought to also adopt the committee’s recommended budget, but then increase revenue estimates by approximately \$98 million over those unanimously recommended by the House Ways and Means Committee (and previously adopted by the full House); the proposal would have appropriated the additional money for full-day kindergarten (included in the Governor’s budget but eliminated by the Finance Committee), state retiree healthcare, and numerous social service programs. That proposal failed by a vote of 162-196.

Finally, the Finance Committee’s recommended version of **HB 2**, the so-called “trailer bill” that incorporates statutory changes and other provisions such as the appropriations for the municipal aid, roads, bridges, and environmental grants, failed by a vote of 169-177. To see how your representative(s) voted on the various budget proposals described above, check the roll call votes [here for HB 1](#) and [here for HB 2](#).

In the end, both **HB 1** and **HB 2** were tabled. Yesterday was the deadline for the House to pass budget bills; with both bills remaining on the table, nothing passes to the Senate. This leaves the House with no official “House position” on any budget items.

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The focus now shifts to the Senate, where its version of the budget proposal will be attached as a non-germane amendment to a House bill (**HB 144**) currently in its possession, and its version of the trailer bill will be attached as a non-germane amendment to another House bill (**HB 517**). Presentations on the Senate proposals are scheduled for this coming **Monday, April 10, at 1:00 p.m., in State House Room 103**. The Senate has already indicated a priority for funding local infrastructure projects by passing **SB 38**, which provides \$36.8 million for municipal roads and bridges (\$30 million distributed under the current highway block grant formula known as “Apportionment A” and \$6.8 million for additional bridge aid), and **SB 57**, which funds 19 wastewater projects. (See separate articles on both of those bills). However, the \$50 million in municipal aid for property tax relief was a House proposal for which there is currently no similar proposal in the Senate.

We will continue to monitor the state budget process as it proceeds through the Senate phase and will report updates in our weekly *Bulletins*.

## **Town Meeting Update, Part 1**

### **House Proposal for Special Meetings Fails in Committee**

We reported last week that the House was considering a bill that would authorize towns to ratify actions taken at town meeting voting sessions that were postponed under RSA 40:4, II, because of the snowstorm on March 14. That bill would have required the local governing body to hold a hearing to decide whether to convene a special town meeting; if the governing body chose to call the town meeting, the meeting would consist of a ballot vote on a single question—whether to ratify all actions taken at the postponed voting session of the annual meeting.

That proposal ran into trouble at a five-hour hearing before the House Election Law Committee on Tuesday. While a couple of witnesses supported the measure as a way to move forward, particularly for towns that had approved bonds, numerous town officials and town attorneys stated that the bill was unnecessarily burdensome and even punitive. They all urged the committee instead to support legislation simply confirming the validity, for this year only, of moderators’ actions in postponing the meetings. They explained that every municipal attorney in the state had agreed that moderators had this authority, and it seemed excessive to force towns to jump through an additional hoop to ratify what they had already done. While the Attorney General’s office was not represented at the hearing, speakers noted that in the Senate, that office had said the moderators’ interpretation of the law was reasonable.

NHMA did not oppose the bill, but agreed that a straight ratification would be far more helpful.

A committee vote at the end of the hearing resulted in a 10-10 tie, and the amendment failed. An amendment that fails in committee ordinarily could be revived on the House floor, but as this one was not germane to the underlying bill, bringing it as a floor amendment would require suspension of the rules by a two-thirds majority, which was not going to happen. That was the end of the road for the House effort.

But there’s more . . .

## Town Meeting Update, Part 2

### Senate Amendment Solves Problem

Stepping in after the House effort faltered, the Senate yesterday passed an [amendment](#) to [HB 329](#) (an unrelated bill dealing with balance billing by health care providers) that, if approved by the House and signed by the Governor, would appear to solve the problem (to the extent there is a problem). The amendment states in its entirety:

I. Due to the concern about an impending snowstorm, some New Hampshire towns and school districts rescheduled their 2017 elections from Tuesday, March 14, 2017 to various later dates. The towns and school districts assert that this unprecedented action was based on advice of lawyers for the New Hampshire Municipal Association and other counsel. This advice was given despite the absence of any mechanism to accommodate such a re-scheduling with regard to other provisions of New Hampshire election law. This advice was also directly contrary to both the political calendar and the election procedure manual, which are required to be prepared cooperatively by the secretary of state and the attorney general and distributed to local election officials. Those who advised local officials that they had the authority to reschedule elections have placed some municipalities in an untenable position. Of particular concern to the general court was the lack of notification for rescheduled elections and the irregular process of absentee voting and recounts. These municipalities must now choose to accept the ramifications of the decision to reschedule their elections or to seek ratification of that decision. Either option will likely result in the disenfranchisement of voters. Since local voters were the ones most directly affected by the unprecedented act of moving election day this act gives those voters a voice in the solution. This act seeks to implement ratification as the least detrimental of 2 unfortunate options, but not to establish precedent or to authorize these actions in future elections. This act is not intended to absolve any legal counsel of liability for the advice given.

II. This act applies to all towns, village districts, and school districts that postponed their meetings or elections that were scheduled to occur March 14, 2017, regardless of whether they have adopted RSA 40:13.

III. All elections of individuals to serve as members of a governing body of a political subdivision, school board, or any other elected position are hereby legalized, ratified, and confirmed.

IV. All actions, votes, and proceedings, held at any town election, town meeting, school district election, school district meeting, village district election, or village district meeting, that was scheduled to take place March 14, 2017, but was postponed due to weather and was held at a later date, may be legalized, ratified, and confirmed by the governing body of the political subdivision following a properly noticed public meeting.

V. The decision of the governing body to legalize, ratify, and confirm the prior actions shall be in writing and shall be posted in the same manner as the results of the election, town meeting, school district election, school district meeting, village district election, or village district meeting, as the case may be.

Setting aside the sniping, this process should work for any town with a postponed voting session date. Bond attorneys had expressed reluctance to issue clean opinions with respect to bonds approved at the delayed meetings, because the comments of state officials called the legality of the votes into question. We have confirmed with bond counsel that if the bill passes in its current form, a governing body's vote as described in paragraph IV will resolve those concerns and enable the issuance of a clean opinion, assuming the bond authorization complied with all other requirements.

To be clear, none of the NHMA attorneys, nor any of the other municipal attorneys we have spoken to, have any interest in being "absolved" of "liability for the advice given." If it makes legislators feel better to smear us, that's fine, as long as they fix the problem.

Because this is a Senate amendment to a House bill, it now goes back to the House, which will either concur or request a committee of conference (or "non-concur" and let the bill die, but that is unlikely). We know nothing about the underlying bill, but we hope the House will concur as quickly as possible. The House next meets on Thursday, April 20, so that will be its earliest opportunity to act. ***Please encourage your representatives to support a motion to concur with the Senate amendment.***

## Retirement Contributions on Part-Time Employees

On **Wednesday, April 11, at 10:00 a.m., in State House Room 101**, the Senate Executive Departments and Administration Committee will hear testimony on **HB 561**, dealing with New Hampshire Retirement System (NHRS) penalties and employer contributions on certain part-time workers. The bill, as introduced in the House, attempted to deal specifically with abuses from certain NHRS retirees returning to work for NHRS employers (*i.e.*, pushing the envelope in terms of the limitations in current law), but has morphed into something totally different. As we explained in [Legislative Bulletin # 9](#), **HB 561** as amended requires local government employers to pay the unfunded liability portion of the NHRS employer rates on ***part-time*** employees when (1) an employer converts or replaces a full-time position with one or more part-time positions within 12 months of a position's becoming vacant, or (2) an employer fills a full-time position with an interim, temporary, or part-time employee within 12 months.

There are many reasons a local government would change a position from full-time to part-time that have nothing to do with the NHRS:

- a reduction in the number of full-time teachers due to declining student enrollment,
- a change in technology, such as online billing and payment of utility fees,
- weathering a recession through adjustments to staffing levels, such as reducing full-time personnel in the planning department.

In these and many other situations, employers would be forced to pay more (approximately two-thirds of the current NHRS rates) for part-time workers, with no benefit to employers, employees or the NHRS if **HB 561** is enacted. There are other ways to address perceived retirement abuses, such as a time limit before a retiree can return to part-time work or a dollar cap on compensation, that are much less cumbersome administratively on the NHRS, and much less punitive on local

government employers trying to manage operations efficiently for the benefit of their property taxpayers. Since all aspects of the NHRS will undergo a comprehensive review by the statutory decennial commission that convenes July 1, we believe the subject of **HB 561** is best addressed in that forum, not as isolated legislation that will obviously have unintended consequences for many government employers.

### **Local Highway and Bridge Aid**

On **Tuesday, April 11, at 1:00 p.m., in LOB Room 201**, the House Public Works and Highways Committee will hear testimony on **SB 38**, which provides \$36.8 million in state funding for municipal roads and bridges. The bill allocates \$30 million to be distributed to cities and towns under the current highway block grant formula known as “Apportionment A,” which is based on both road mileage and population estimates. Municipal bridge aid of \$6.8 million would be appropriated to the existing bridge program under RSA 234, providing funding for an additional 8 to 10 municipal bridge projects in fiscal year 2018. At 1:15 p.m. the same day, the committee will hear testimony on a non-germane amendment dealing with allocation of funds to the New Hampshire Department of Transportation and certain provisions related to red-list bridges.

### **Hearing on State Aid Grants**

On **Tuesday, April 11, at 11:15 a.m., in LOB Room 210**, the House Finance Committee will hear testimony on **SB 57**, an **NHMA policy bill**, which restores state aid grant funding (SAG) to 19 water and wastewater projects that were eligible for state aid prior to the effective date of the moratorium on state funding. As we reported last week in *Legislative Bulletin #14*, the Senate amended **SB 57** by removing two projects from the list of nine in the original bill, adding the twelve projects contained in **HB 119** (which was killed in the House). With the state budget still far from complete (see House budget article above), it’s important to garner support for this stand-alone appropriation bill.

Funding in **SB 57** includes projects in North Conway Water Precinct, Merrimack, Nashua (5 projects), Claremont, Dover, Enfield, Portsmouth (4 projects), Durham, Berlin (2 projects), Conway Village Fire District, and Lebanon. Please contact members of the [House Finance Committee](#) and urge their support for all the projects listed in **SB 57**.

### **Local Option Transportation Improvement Fund**

**HB 121**, an **NHMA policy bill** that would increase from \$5 to \$10 the maximum fee that a municipality may collect under RSA 261:153, VI, has not yet been voted on by the Senate Public and Municipal Affairs Committee, but we expect that to happen soon! This means there is still time to contact members of the [committee](#) and urge support for **HB 121** if you haven’t already done so. Explanations of the merits of **HB 121** may be found in *Bulletins #6* and *#13*.

## **HOUSE CALENDAR**

**TUESDAY, APRIL 11, 2017**

### **COMMERCE AND CONSUMER AFFAIRS, Room 307, LOB**

10:30 a.m. **SB 80**, relative to implementation of the all veterans' tax credit, and relative to applications for recovery from the FRM victims' contribution recovery fund.

### **FINANCE, Rooms 210-211, LOB**

10:30 a.m. **SB 197-FN-A**, making an appropriation to the department of justice to enforce election and lobbying laws.

11:15 a.m. **SB 57-FN-A**, making appropriations to the department of environmental services for the purposes of funding eligible drinking water and wastewater projects under the state aid grant program and relative to making an appropriation from the drinking water and ground-water trust fund to the department of environmental services to address drinking water contamination in Amherst. **NHMA Policy.**

### **MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB**

10:00 a.m. **SB 168**, relative to increasing the maximum amount of the optional veterans tax credit.

### **PUBLIC WORKS AND HIGHWAYS, Room 201, LOB**

1:00 p.m. **SB 38-FN**, making an appropriation to the department of transportation for local highway aid and aid for municipal bridges. **NHMA Policy.**

1:15 p.m. Public hearing on non-germane amendment #2017-1311h to **SB 38-FN**, relative to making an appropriation to the Department of Transportation for local highway aid and aid for municipal bridges. The amendment provides an appropriation to the Department of Transportation for local highway aid and municipal bridge aid, revises the allocation of funds from the highway and bridge betterment account, and revises certain provisions related to red list bridges. Copies of the amendment are available in the Sergeant-at-Arms office, Room 318, State House.

**WEDNESDAY, APRIL 12, 2017**

### **HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Room 205, LOB**

10:30 a.m. **SB 247-FN-A**, preventing childhood lead poisoning from paint and water and making an appropriation to a special fund.

### **RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB**

10:00 a.m. **SB 73**, relative to septic requirements in conversions to accessory dwellings.

11:15 a.m. **SB 121**, establishing a commission to determine if the department of environmental services should take over the MS-4 permit system from the Environmental Protection Agency.

**THURSDAY, APRIL 13, 2017**

### **WAYS AND MEANS, Room 202, LOB**

2:00 p.m. **SB 185**, extending the community revitalization tax relief program to coastal properties subject to storm surge, sea level rise, and extreme precipitation.



## SENATE CALENDAR

### MONDAY, APRIL 10, 2017

#### FINANCE, Room 103, SH

- 1:00 p.m. Presentation of proposed Amendment #2017-1344s, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2018 and June 30, 2019 to HB 144. HB 144 will serve as the vehicle for HB 1-A.  
Presentation of proposed Amendment #2017-1345s, relative to state fees, funds, revenues and expenditures to HB 517. HB 517 will serve as the vehicle for HB 2-FN-A-L.

### TUESDAY, APRIL 11, 2017

#### ENERGY AND NATURAL RESOURCES, Room 103, SH

- 9:30 a.m. **HB 380-FN**, relative to the oil discharge and disposal cleanup fund.  
9:45 a.m. **HB 336**, relative to standards for outdoor wood-fired hydronic heaters.

### WEDNESDAY, APRIL 12, 2017

#### EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 101, LOB

- 9:00 a.m. **HB 97-FN**, relative to the use of drones.  
10:00 a.m. **HB 561-FN**, relative to contributions by retirement system employers for certain full-time positions changed to part-time or interim employment and relative to enforcement of provisions concerning retired members working part-time after retirement.  
10:30 a.m. **HB 624**, relative to group II vested deferred retirements, the age of dependents in the retiree health plan, and retired judges' participation in the retiree health plan.

#### PUBLIC AND MUNICIPAL AFFAIRS, Room 102, LOB

- 9:00 a.m. **HB 568-FN**, relative to the taxability of lease interests in public property.  
9:15 a.m. **HB 173**, relative to regulations restricting the use of water for outdoor usage.

### THURSDAY, APRIL 13, 2017

#### JUDICIARY, Room 100, SH

- 9:15 a.m. **HB 460**, relative to minutes under the right-to-know law.

## HOUSE FLOOR ACTION

Wednesday, April 5, 2017

Thursday, April 6, 2017

**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. **Tabled.**

**HB 2-FN-A-LOCAL**, relative to state fees, funds, revenues, and expenditures. **Tabled.**

**HB 25-FN-A**, making appropriations for capital improvements. **Passed with Amendment.**

## SENATE FLOOR ACTION

Thursday, April 6, 2017

**HB 329**, (New Title) establishing a committee to study balance billing and authorizing municipal ratification of certain meetings and elections. **Passed with Amendment.**

	<b>UPCOMING EVENTS FOR NHMA MEMBERS</b>	
	April 10, 2017 12:00 – 1:00 p.m.	<b>Webinar-</b> A Halftime Report: The Legislature at Crossover
	April 12, 2017 12:00 – 1:00 p.m.	<b>Webinar-</b> Here Comes the Parade: Are Your Volunteers and Recreational Staff Ready?
	<b>2017 Local Officials Workshops:</b> 9:00 a.m. – 4:00 p.m. (check-in and continental breakfast begin at 8:30 a.m.)	
	April 13, 2017	Peterborough Recreation Center
	April 19, 2017	Grantham Town Offices
	May 4, 2017	Sugar Hill Meeting House
	May 10, 2017	North Conway Water Precinct
	May 23, 2017	Stratham Municipal Center
	June 3, 2017	Concord NHMA Offices
October 27, 2017 9:00 a.m. – 1:00 p.m.	The Intersection of Land Use and Road Law: A New Hard Road to Travel Workshop	
<p>Please register through our website: <a href="http://www.nhmunicipal.org">www.nhmunicipal.org</a> by scrolling down on the left under Calendar of Events For more information or questions, please call 1-800-852-3358, Ext. 3350.</p>		