

LEGISLATIVE BULLETIN

Stricter Arsenic Standards

On **Tuesday, April 16, at 9:45 a.m., in State House Room 103**, the Senate Energy and Natural Resources Committee will hold a hearing on [HB 261](#), which requires the Department of Environmental Services to enact administrative rules lowering the ambient groundwater quality standard for arsenic to a value of 5 micrograms per liter or less. We are concerned that neither the initial version of the bill, nor the amended version that passed the House, had a fiscal note estimating the potential costs to public drinking water systems for compliance with this proposed stricter standard. Local officials with municipal water systems that may be challenged to meet this proposed standard are encouraged to testify at the hearing or submit their concerns to members of the [Energy and Natural Resources Committee](#). As always, please forward a copy of any written testimony to NHMA so we can share your concerns with other legislators.

House Passes State Biennial Budget

On Thursday, almost completely along party lines, the House passed [HB 1](#) and [HB 2](#), the biennial state operating budget and associated trailer bill for fiscal years 2020 and 2021. As we have mentioned in previous *Bulletins*, there is a one-time appropriation of **\$12.5 million** in the second year of the biennium for municipal aid to be paid by September 1, 2020. [Here is a list](#) estimating the amount of municipal aid distribution by municipality. The meals and rooms tax distribution of **\$68.8 million** each year is the same amount it has been since 2017, approximately 19.5% and 18.5% of the total meals and rooms tax revenue budgeted for fiscal years 2020 and 2021, respectively, compared to the 40% municipal share prescribed in law. Highway block grant funding is approximately **\$36 million** each year, slightly higher than the current level. Municipal bridge aid is **\$6.8 million**, which continues a ten-year backlog based on the number of bridges currently seeking this aid. The budget includes **\$5.7 million** to fund 58 of the 70 wastewater projects addressed in [HB 352](#) and [SB 254](#), but continues the moratorium on funding any new projects completed after December 2018.

Bulletin 16 — 2019 Session
April 12, 2019

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In [Bulletin#15](#) we mentioned that the House budget includes additional education funding to school districts in the amount of approximately **\$165 million** over the amounts estimated based on current law. This, along with the municipal aid mentioned above, is intended to provide the significant property tax relief that legislators have been hearing from their constituents is sorely needed. The [Education Funding Analysis spreadsheet](#) shows the estimated difference in education funding from current law.

We also previously mentioned that the budget is predicated on new revenue sources, including an expansion of the interest and dividends tax to capital gains, sports wagering, and a tax on e-cigarettes. These revenue sources, as well as a number of significant funding priorities in the budget, account for the partisan vote in the House, and may cause concern as the Senate now has its turn at crafting a biennial budget reflecting its priorities and revenue estimates. We will keep you posted as this process continues!

Senate Hearing on Utility Valuation

The Senate hearing on [HB 700](#), which establishes a uniform methodology for valuation of utility property, is scheduled for next Wednesday. This will be the last formal opportunity for municipalities to weigh in on this bill, which passed the House unanimously three weeks ago.

We have written about this bill several times, but here is a recap of its major provisions:

- The bill establishes a formula for determining the value of a utility's **distribution assets only** within each municipality.
- The bill does not apply to the following utility assets, which the municipality would continue to appraise using any legal method:
 - electric company property classified as transmission assets according to FERC standards, and associated land or land rights;
 - electric generation facilities and associated land and land rights;
 - gas transmission pipeline facilities regulated by FERC and associated land rights;
 - telephone, cable, or internet provider assets; or
 - large-scale natural gas and propane gas liquid storage and processing facility assets.
- For electric and gas utility company assets (other than land and land rights), value would be based on a weighted average of 70 percent of each asset's original cost and 30 percent of each asset's net book cost.

This weeks' to-do list

- ✓ Tell your senator and members of the Energy and Natural Resources Committee your concerns about **HB 261**, requiring DES to impose stricter arsenic standards for public drinking water systems.
- ✓ Follow the links in the budget article below to see how the House-passed budget would distribute municipal and education aid to your municipality. For extra credit, read the 910-page budget and the 109-page trailer bill.
- ✓ Talk to your assessor about how the utility valuation bill, **HB 700**, would affect your municipality, and let your senator know if you have concerns.
- ✓ Make sure your representatives know that it would be impossible for municipalities to comply with **SB 271**, the prevailing wage bill, and that the municipal exemption needs to be clarified.
- ✓ Take a look at **SB 79**, regarding solid waste reporting, and let us know if it would be difficult for your municipality to comply.
- ✓ Tune in to the Legislative Half-Time webinar on Wednesday.

(Utility Valuation—Continued from Page 2)

- For water utility company assets, the formula would be 25 percent of each asset’s original cost and 75 percent of each asset’s net book cost.
- Each company would be required to report annually to each municipality the original cost and net book value of all of its assets located within the municipality.
- Three percent of the value derived using the above formula would be added to the value to account for the use of public rights-of-way and private easements. Land owned in fee, as well as office buildings, garages, and warehouses, would be assessed using regular assessing practices outside the formula.
- The new formula would be phased in over a five-year period, so that in the first year the value would be a weighted average of 80 percent of the locally assessed value for the 2018 tax year and 20 percent of the value determined using the new formula, in the second year the split would be 60-40, and so on until the formula is fully implemented.

As we have explained before, NHMA has not taken a position on the bill, which would reduce values in some municipalities and increase them in others. The prospect for lower valuations should be balanced against the fact that the utility companies have been challenging their valuations every year; and, while the local valuations have mostly been upheld, they have not always—and the losses, when they happen, can be disastrous. Further, the bill is much better than some that have come close to passing in recent years; another legislature in another year could do something much worse.

For these reasons, we encourage local officials to review the bill carefully, weigh the costs and benefits of accepting its results versus continuing to do battle in the legislature and the courts, and then let your senators know what you think. The hearing is scheduled for **Wednesday, April 17, at 10:10 a.m. in State House Room 100**, before the [Ways and Means Committee](#).

House to Hear Murky Prevailing Wage Bill

The House Labor Committee has scheduled a hearing next Wednesday on [SB 271](#), the bill that would require payment of the “prevailing wage” on state-funded public works projects. This is a state-level version of the federal Davis-Bacon Act, which applies to projects using federal funds.

As we wrote previously, it is not entirely clear whether **SB 271** would apply to any municipal public works projects. Most of the bill’s language refers only to the state or its “agency, officer, board commission, or authorized agent,” and it contains an express exemption for county and municipal projects. However, that exemption leaves room for interpretation. It reads:

This chapter shall not apply to workers who are employed on public works construction projects for county or municipal bodies, or any political subdivision or the agencies thereof, *unless such a public works construction project is funded wholly or in part with state-administered funds* that meet or exceed the threshold for executive council approval for the relevant state contract.

(Emphasis added.)

(Prevailing Wage - Continued from Page 3)

At the Senate hearing on the bill, NHMA expressed concern about how the term “state-administered funds” will be interpreted. For example, if a town paves a road using money from its highway block grant, would that project be subject to the prevailing wage requirement? We think not, but we can imagine someone arguing otherwise. We suggested an amendment to clarify this, but the Senate did not adopt it.

This issue was raised during the March 14 Senate floor debate on the bill, and the discussion indicated that senators themselves had different interpretations; this lack of consensus demonstrates that the matter still needs to be clarified. Compliance with this complex law would be *extremely* burdensome, if not impossible, for most New Hampshire municipalities, and it is essential that the municipal exemption be clarified.

The committee’s hearing is scheduled for **Wednesday, April 17, at 10:00 a.m., in LOB Room 307. Please contact members of the [committee](#) and urge them to either fix the bill or report it as *Inexpedient to Legislate*.**

Solid Waste Reporting

The House hearing on [SB 79](#), which would require municipalities to report certain information about solid waste collection and disposal to the Department of Environmental Services, has been scheduled for Tuesday, April 23. This bill was amended in the Senate to address concerns we had raised, but we have subsequently realized that it may need some more work.

The bill would require every municipality to report annually “the weight of all solid waste collected by the town,” and then report (1) the weight of the waste that was diverted to recycling, composting, or reuse, and (2) the weight of the waste that was sent to a landfill or incinerator. We believe most or all municipalities can provide information about the weight of their *outgoing* waste, because they pay tipping fees at the landfill or incinerator based the weight determined at the receiving facility, and the companies that take their recyclables also provide information about weight. However, in many towns this does not account for all of the solid waste collected.

For example, if the town has a burn pile for wood and brush, or a compost pile, anything deposited there is not likely to be weighed. In some towns recyclable materials are picked up by the local Boy Scouts or another nonprofit organization and therefore would not be weighed. We suspect there are other examples.

We plan to work with DES to address these issues; we do not believe anyone is trying to make municipalities report information that they do not have. Please continue to let us know if you see other problems with the bill. The hearing is scheduled for **Tuesday, April 23, at 10:00 a.m., in LOB Room 303**, before the [Environment and Agriculture Committee](#).

HOUSE CALENDAR

TUESDAY, APRIL 16, 2019

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. **SB 43**, establishing a commission to study barriers to increased land development in New Hampshire.
- 11:00 a.m. **SB 21**, relative to notice to cut timber.
- 1:00 p.m. **SB 53-L**, relative to maintenance of roads and highways to summer cottages.
- 2:00 p.m. **SB 154**, allowing municipalities to adopt a credit against property taxes for certain workforce housing, and authorizing the sale of certain property by the town of Milton.

WEDNESDAY, APRIL 17, 2019

ENVIRONMENT AND AGRICULTURE, Rooms 301-303, LOB

- 10:00 a.m. **SB 77-FN**, relative to costs of care for animals seized in cruelty cases and prohibiting the future ownership of animals in certain animal cruelty cases.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 307, LOB

- 10:00 a.m. **SB 271-FN-L**, relative to requiring prevailing wages on state-funded public works projects.
- 11:00 a.m. **SB 20**, relative to notification requirements for employees, workplace inspections, and the youth employment law.

THURSDAY, APRIL 18, 2019

JUDICIARY, Room 208, LOB

- 1:00 p.m. **SB 36**, creating a cause of action for certain constitutional deprivations of right.

TUESDAY, APRIL 23, 2019

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

- 10:00 a.m. **SB 79**, relative to required reporting on waste reduction.
- 11:00 a.m. **SB 163**, relative to permits for operation of solid waste management facilities.

FINANCE, Rooms 210-211, LOB

- 1:00 p.m. **SB 169**, relative to recovery of expenditures from the drinking water and groundwater trust fund.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. **SB 286-FN-L**, relative to aggregation of electric customers by municipalities and counties.
- 2:00 p.m. **SB 285-FN**, establishing a coastal resilience and economic development program.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

- 10:30 a.m. **SB 39**, relative to the repair of roads not maintained by a municipality.
- 1:00 p.m. **SB 221**, establishing a commission to study highway fund revenue for hybrid and electric vehicles.

WEDNESDAY, APRIL 24, 2019

FINANCE, Rooms 210-211, LOB

11:00 a.m. **SB 254-FN-A**, appropriating funds to the department of environmental services for the purpose of funding eligible wastewater projects under the state aid grant program. **NHMA Policy.**

SENATE CALENDAR

TUESDAY, APRIL 16, 2019

ENERGY AND NATURAL RESOURCES, Room 103, SH

8:30 a.m. **HB 495**, establishing a commission on drinking water.
8:50 a.m. **HB 737**, establishing a commission to investigate and analyze the environmental and public health impacts relating to releases of perfluorinated chemicals in the air, soil, and groundwater in Merrimack, Bedford and Litchfield.
9:30 a.m. **HB 707**, relative to settlement money from actions pertaining to the contamination of groundwater or drinking water.
9:45 a.m. **HB 261**, requiring the commissioner of the department of environmental services to revise rules relative to arsenic contamination in drinking water.
10:30 a.m. **HB 494**, relative to removal or containment of contaminants from the Coakley Land fill.

JUDICIARY, Room 100, SH

9:30 a.m. **HB 286-L**, relative to free inspection of records under the right-to-know law.
9:40 a.m. **HB 334-L**, relative to disposition of certain municipal records.

WEDNESDAY, APRIL 17, 2019

ELECTION LAW AND MUNICIPAL AFFAIRS, Room 102, LOB

9:30 a.m. **HB 539-FN**, establishing a committee to study the implementation of the One4All ballot in municipal elections.
9:45 a.m. **HB 105-FN**, relative to domicile residency, voter registration, and investigation of voter verification letters.
10:15 a.m. **HB 106**, relative to the terms “resident,” “inhabitant,” “residence,” and “residency.”

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 101, LOB

9:40 a.m. **HB 710-FN**, relative to adoption of state building code and fire code amendments.
10:00 a.m. **HB 562**, relative to the state building code.
10:15 a.m. **HB 259**, relative to building code violations.
10:30 a.m. **HB 343**, relative to application of the state fire code to foster homes.

WAYS AND MEANS, Room 100, SH

10:10 a.m. **HB 700**, relative to valuation of utility company assets for local property taxation.

HOUSE FLOOR ACTION

Thursday, April 11, 2019

HB 1-A, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2020 and June 30, 2021. **Passed with Amendment.**

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

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

SENATE FLOOR ACTION

Thursday, April 11, 2019

HB 136, increasing the maximum period for the zoning board of adjustment to hold a public hearing. **Passed.**

HB 148, relative to electric bicycles. **Passed.**

HB 167, allowing the town of Kingston to hold a bonfire event in 2019. **Passed.**

HB 245, relative to the planning board's procedures on plats. **Passed.**

HB 391, relative to permits for vehicle registration. **Passed.**

HB 418-FN, relative to the limitations on part-time employment under the New Hampshire retirement system. **Inexpedient to Legislate.**

HB 675-FN, relative to the purchase of service credit in the state retirement system. **Passed.**

2019 NHMA UPCOMING EVENTS FOR MEMBERS

Apr. 10	2019 Local Officials Workshop (All day), Rochester
Apr. 17	Webinar: Legislative Half-time
May 03	Regional Right-to-Know Workshop in Dover
May 08	2019 Local Officials Workshop (All day), Lebanon
May 10	How to Avoid Costly Mistakes! A Wage & Hour Compliance Workshop

To register for an upcoming event, go to our website: www.nhmunicipal.org and scroll down on the left under CALENDAR OF EVENTS. Click on the green bar *View the Full Calendar* and go to the workshop or webinar you are interested in. For more information, please call NHMA's Workshop registration line: (603) 230-3350.