

LEGISLATIVE BULLETIN

No Recommendation on Transportation Improvement Fee Bill

Bulletin 20 — 2019 Session
May 10, 2019

On Thursday the Senate Election Law and Municipal Affairs Committee deadlocked 2-2 on [HB 409](#), the **NHMA policy bill** that increases the cap on the local option transportation improvement fee from \$5 to \$10. With a tie vote, the bill will go to the full Senate with neither an Ought to Pass recommendation nor an Inexpedient to Legislate recommendation.

Those opposing the bill raised concerns that this local option fee increase of \$5 annually is too regressive. However, this fee helps offset the cost of transportation-related services and projects that would otherwise result in increased property taxes, or not be funded at all. It was suggested that it would be better for a municipality to cover those costs with a small increase in property taxes. But isn't that a decision best left to local voters?

As we have reported in many Legislative Bulletins this session, the transportation improvement fee is a **local** option fee, funded by **local** dollars, used for **local** projects approved by the **local** legislative body of the municipality adopting the fee. We believe local voters are capable of deciding for themselves whether they would rather fund transportation improvements with this fee or with property taxes.

The Senate will vote on **HB 409** next **Wednesday, May 15**. Whether your municipality currently assesses this fee, or may plan to do so in the future, please contact your senator before then and urge him or her to **support local control** (as the House did with nearly 70% voting in favor of HB 409) by **supporting** a motion of **Ought to Pass** on **HB 409**.

House Tables Animal Cruelty/Dog License Fee Bill

After some behind-the-scenes scrambling and jostling, the House this week tabled **SB 77**, the bill we wrote about [last week](#) that would make changes to the animal cruelty laws. We expressed alarm last week about a last-minute committee amendment that would take an additional 50 cents from municipal dog license fees and send it to the state for a cost-of-care fund for confiscated animals.

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The tabling of the bill is a mixed result. It means the prospect of losing dog license revenue is off the table (so to speak) for now; but it also means a good bill that we otherwise supported is in jeopardy. We knew the motion to table was coming and were encouraging representatives to defeat it and then defeat the committee amendment, but we believe some of them felt it was safer just to table the bill.

In any event, while **SB 77** will likely die on the table (because yesterday was the last day for the House to act on it), its spirit lives on. The day after the House vote, the bill's prime sponsor offered similar language (without the dog license fee provision) as an amendment to a House bill that is currently in the Senate. (The underlying bill is **HB 459**, dealing with growing industrial hemp.) That bill is in the Senate Energy and Natural Resources Committee, which will likely vote on it next week. If the bill passes the Senate with the amendment, it will go back to the House to concur or (almost certainly) request a committee of conference.

We support the amendment to **HB 459**, and, with the usual caveat that there are no guarantees, we believe the threatened loss of dog license revenue has passed. Of course, we will continue to monitor developments.

House Passes Union Rights Bill

The House this week passed a thoroughly transformed version of **SB 148**, the bill that originally required public employers to inform newly hired employees about their right to join or not join a union and the cost of union membership. The bill was amended in the Senate and amended again in the House, so that what began as an anti-union bill is now very much a pro-union bill. We opposed the original bill and are not thrilled with the current version.

As passed by the House, the bill now requires the union, not the employer, to notify new employees about the right to join or not join the union and the cost of membership—something we're told they already do. Beyond that, it requires the employer to give union representatives access to members of the bargaining unit that the union represents, including: (1) the right to meet with employees on the work premises to investigate and discuss grievances; (2) the right to conduct on-site meetings during lunch and other breaks and before and after the workday to discuss workplace issues and union matters; and (3) the right to meet with newly hired employees for 60 minutes not later than 10 days after hire.

This week's to-do list

- ✓ Contact your senator before Wednesday and urge him or her to support **HB 409**, which increases the limit on the local option municipal transportation improvement fee.
- ✓ If your town has its annual meeting in May, get some rest over the weekend, and call NHMA with any last-minute questions.
- ✓ Register for NHMA's May and June webinars and workshops
- ✓ Call you mother on Sunday!

Those requirements may not be particularly burdensome—in fact, they are often included in collective bargaining agreements. But that’s the point—they should be matters for negotiation, not mandates enshrined in statute. We hope this is not the beginning of a trend.

The bill now goes back to the Senate. Opposition to the amended version was surprisingly tepid in the House—the bill came out of the Labor Committee with a 19-0 recommendation and passed the House on the consent calendar—and we are not optimistic that it will be any stronger in the Senate. But we encourage senators to take a close look at the bill and consider whether it really is necessary.

Odds and Ends

Here’s what happened in other legislative action this week:

Net metering. The House concurred with the Senate’s amendment to [HB 365](#), the **NHMA policy bill** that increases the capacity limit for net metering projects to five megawatts. The bill goes next to the governor, who vetoed a similar bill last year. **HB 365**, however, passed both chambers with overwhelming, veto-proof majorities, so we are optimistic of a better outcome this year.

Use of PFAS foams for firefighting restricted. The House passed [SB 257](#), dealing with firefighting foam to which perfluoroalkyl and perfluoroalkyl substances (“PFAS chemicals”) have been added. The bill prohibits the sale of such foams, with some exceptions, and prohibits the use of such foams for training or testing purposes unless the Department of Environmental Services has evaluated the testing facility for containment, treatment, and disposal measures to prevent uncontrolled release of foam to the environment. The bill also requires anyone who sells firefighting protective equipment in the state to provide written notice to the purchaser if the equipment contains PFAS chemicals. The House amended the bill, so it must go back to the Senate to concur or request a committee of conference.

Prevailing wage bill. The House passed [SB 271](#), requiring the payment of “prevailing wages” on state public works projects. We have written about this bill before, expressing concern that the bill’s exclusion for municipal projects was not clear enough. The House declined to clarify that. If the bill becomes law (we believe a veto by the governor is a possibility), we *hope* it will be interpreted to apply only to projects where the state, not a municipality, is the contracting party.

PTSD presumption. The House passed [SB 59](#), which we wrote about in [last week's Bulletin](#). As amended by the House, the bill establishes a presumption, for workers’ compensation purposes, that acute stress disorder and post-traumatic stress disorder in first responders are work-related. That presumption does not take effect until January 1, 2021, to give a re-established committee time to study the issue. The bill also clarifies some aspects of the workers’ compensation presumption relative to firefighters with cancer or heart or lung disease. Because the House amended the bill, it must go back to the Senate to concur or request a committee of conference.

(Odds & Ends — Continued from Page 3)

Processing absentee ballots. The Senate Election Law and Municipal Affairs Committee heard testimony on [HB 556](#), which would allow moderators to begin processing absentee ballots before election day. Absentee ballots could be processed (not counted) within the seven-day period before election day if the moderator posts notice of the session at least 48 hours in advance. Citizens would be allowed to observe the process in the same manner as they may on election day.

NHMA supported the bill in both the House and the Senate. There was no opposition at this week’s hearing, although the secretary of state’s office did suggest an amendment that would require the clerk to open the outer envelope upon receiving an absentee ballot and confirm that the inner envelope has been properly executed. If the envelope is not properly executed, the clerk would be required to make a reasonable attempt to contact the voter and allow the voter to correct the deficiency before election day. That amendment met some resistance from the bill’s sponsor and some town clerks. We support the bill without the amendment, or with the amendment if the objections can be resolved.

Certification of building inspectors. The Senate Election Law and Municipal Affairs Committee voted to recommend re-referring [HB 303](#), which would require persons appointed as the local enforcement agency for inspections and enforcement of the state building code to have certification or show sufficient knowledge of code compliance requirements. Assuming the Senate affirms that recommendation, the bill will see no further activity until the fall.

Lawn watering restrictions. The Senate Election Law and Municipal Affairs Committee voted Ought to Pass with Amendment on [HB 443](#), allowing a municipal governing body to restrict the use of water from public water systems or private wells for watering both residential and non-residential lawns during a declared drought. Current law allows the municipality to restrict only residential lawn watering. Under the bill, recreational fields, golf courses, and grass agricultural fields would be exempt from any municipal restrictions. (Note: the official analysis printed on this bill states that the bill “excludes certain types of turf from municipal restrictions on outdoor lawn watering.” This is technically true, but misleading. The bill *expands* municipal authority by allowing restrictions on non-residential lawn watering, then excepts certain types of lawns from that expanded authority.) The committee’s proposed [amendment](#) clarifies that the law would not limit a public water system’s authority to implement conservation measures in accordance with rules of the Department of Environmental Services. The full Senate will vote on the bill on Wednesday.

HOUSE CALENDAR

TUESDAY, MAY 14, 2019

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB

11:00 a.m. **SB 163**, relative to permits for operation of solid waste management facilities.

WAYS AND MEANS, Room 202, LOB

10:00 a.m. **SB 74-FN-A**, relative to register of deeds fees used to support the land and community heritage investment program (LCHIP), and establishing a committee to study the economic impact of land conservation.

THURSDAY, MAY 16, 2019

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. **SB 204**, relative to encouraging the development of electrical energy storage by both private market participants and regulated electric utility companies.
- 11:00 a.m. **SB 307-FN**, relative to outdoor lighting.

SENATE CALENDAR

TUESDAY, MAY 14, 2019

JUDICIARY, Room 100, SH

- 10:00 a.m. **HB 154**, prohibiting non-disparagement clauses in settlement agreements involving a governmental unit.

THURSDAY, MAY 16, 2019

ELECTION LAW AND MUNICIPAL AFFAIRS, Room 102, LOB

- 11:00 a.m. **HB 593**, relative to updating official voter checklists.

HOUSE FLOOR ACTION

Wednesday, May 8, 2019

SB 20, relative to notification requirements for employees, workplace inspections, and the youth employment law. **Passed.**

SB 21, relative to notice to cut timber. **Passed.**

SB 22, relative to the construction property tax exemption. **Passed with Amendment.**

SB 43, establishing a commission to study barriers to increased land development in New Hampshire. **Passed with Amendment.**

SB 49, relative to the state fire code. **Passed with Amendment.**

SB 59-FN, adding post traumatic stress disorder and acute stress disorder to the definition of “injury” for purposes of workers’ compensation and reestablishing the commission to study the incidence of post-traumatic stress disorder in first responders. **Passed with Amendment.**

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. **Tabled.**

SB 134-FN, relative to the administration of the meals and rooms tax. **Passed with Amendment; referred to W&M-H.**

SB 146-FN, relative to eliminating the waiting period before eligibility to receive unemployment benefits. **Passed.**

(House Floor Action— Continued from Page 5)

SB 148, relative to notification to public employees regarding their right to join or not join a union. **Passed with Amendment.**

SB 149, relative to voluntary application of the uniform prudent management of institutional funds act to certain charitable trusts. **Passed; referred to JUD-H.**

SB 163, relative to permits for operation of solid waste management facilities. **Passed with Amendment; referred to ED&A-H.**

SB 169, relative to recovery of expenditures from the drinking water and groundwater trust fund. **Passed with Amendment.**

SB 204, relative to distributed energy resources and consumer energy storage. **Passed with Amendment; referred to M&CG.**

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. **Inexpedient to Legislate. NHMA Policy.**

SB 257-FN, prohibiting foams containing perfluoroalkyl chemicals for use in fighting fires. **Passed with Amendment.**

SB 271-FN-LOCAL, relative to requiring prevailing wages on state-funded public works projects. **Passed.**

SB 285-FN, establishing a coastal resilience and economic development program. **Passed with Amendment; referred to PW.**

SB 307-FN, relative to outdoor lighting. **Passed; referred to M&CG.**

SB 310-FN-A-LOCAL, relative to casino gambling. **Inexpedient to Legislate.**

SENATE FLOOR ACTION

There was no Senate floor action for the week.

2019 NHMA UPCOMING EVENTS FOR MEMBERS	
May 14	Webinar: Who Not to Hire!
May 30	NHMA/NHMLA – Managing Public Rights of Ways Workshop
June 6	Municipal Trustees Training, Concord
June 8	(Saturday) 2019 Local Officials Workshop (All day), Concord
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 <i>View the Full Calendar</i> and go to the workshop or webinar you are interested in. For more information, please call NHMA’s Workshop registration line: (603) 230-3350.	