

# LEGISLATIVE BULLETIN

## The Session Ends, the Suspense Continues

The House and Senate finished all action on committee of conference bills yesterday, and those bills are now in the pipeline to the governor’s office, along with dozens of others that both chambers approved previously. As of this morning, the governor had signed at least 144 bills into law.

The governor has also vetoed about a dozen bills, and, in addition to the budget (see next article), there are a number of others pending that are strong candidates for vetoes. There is a fair amount of anxiety as observers wait to see what gets signed and what gets vetoed. The legislature will schedule a “veto day,” likely in September, when it will take override votes on all of the governor’s vetoes (other than the few that it has already considered).

There are at least two vetoes we would like to see overridden—**HB 365**, the net metering bill we have discussed in recent Bulletins, and **HB 409**, the local option transportation fee bill, discussed below. There is a good chance that we will also support a few of the governor’s vetoes—but that remains to be seen.

We will issue a special edition of the Legislative Bulletin sometime before veto day with a summary of those bills that are of municipal interest and our recommendations on each. In the meantime, it’s not too early for local officials to start talking to their legislators about these bills.

## House and Senate Pass State Budget – Veto Expected

As expected, the House and Senate yesterday passed **HB 1**, the biennial state operating budget, and **HB 2**, the companion “trailer” bill containing statutory changes to implement the budget. The vote was exactly along party lines in both chambers, except for one Democratic representative who voted against **HB 2**. Last week’s [Bulletin](#) included a summary of the municipal funding in the budget bills.

Bulletin 27 — 2019 Session  
June 28, 2019

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However, anticipating the governor's veto of both bills, the House and Senate each unanimously passed a continuing resolution, [HJR 3](#), even before debating the budget bills. **HJR 3** authorizes state agencies to expend up to one quarter of, and for the same purposes as, their fiscal year 2019 appropriations, effective July 1 through October 1, 2019.

Many of those opposing the budget believe that the proposed expenditures are too high, creating a structural deficit that will be difficult to address in subsequent budgets or in the event of another recession. Those supporting the budget believe that the recently recurring end-of-year state surpluses should be appropriated for needed and deferred programs, services, and property tax relief. Philosophical differences also exist regarding taxation of businesses. While some legislators offered to address these and other differences sooner rather than later, the continuing resolution leaves the possibility that a final resolution may not occur until sometime in September.

As we also mentioned in last week's [Bulletin](#), our primary concern is that there is no guarantee that the municipal funding currently in the budget will remain since everything will be "on the table" in future budget negotiations. Additionally, delays in adopting the biennial state budget may result in delays for the Department of Revenue Administration (DRA) to set property tax rates, a process that typically begins in early October. Delays in setting property tax rates have significant adverse effects on municipal finances, including increased short-term borrowing costs and impacts on debt payments and on required property tax payments to schools and counties. We will certainly keep you posted of developments on the budget, particularly as we get closer to the fall tax rate-setting season.

### Governor Signs Bill on SB 2 Adoption . . .

The governor this week signed [HB 415](#), the **NHMA policy bill** that modifies the process for a town to adopt the official ballot referendum (SB 2) form of town meeting. Under the new law, the question of adopting SB 2 will be debated and voted on by unofficial ballot at the business session of town meeting, rather than being placed on the official ballot, as is required under current law. This will ensure that voters have an opportunity to become fully informed about the consequences of making such a major change to their form of government before they are asked to vote on the question. The new law does not change the process for rescinding the adoption of SB 2. A rescission question must still be placed on the official ballot, because once SB 2 is adopted, there is no other means of voting on a town meeting question.

### **This summer's to-do list**

- ✓ Talk to your legislators (and NHMA's government affairs staff) about ideas for 2020 legislation. (The period for House members to file legislation is September 4 -20.)
- ✓ Watch for NHMA's Final Legislative Bulletin in early August, summarizing all new laws affecting local government, and contact NHMA if you have any questions.
- ✓ Check the (now bi-weekly) House and Senate calendars for action on retained and re-referred bills and meetings of study committees and commissions.
- ✓ Talk to your legislators about overriding the governor's vetoes on **HB 365** and **HB 409**.
- ✓ Look for a special edition of the Legislative Bulletin in late August or early September with information about "veto day."

(SB 2 Adoption— Continued from Page 2)

The new law, which also applies to school districts and village districts, takes effect on August 24, so the new process will be in place for the 2020 town meeting season. We thank the governor for signing this important bill.

### **... But Vetoes Municipal Transportation Fee Bill**

This week the governor vetoed [HB 409](#), the **NHMA policy bill** that would raise the cap from \$5 to \$10 for the local option transportation improvement fee. A copy of the veto message is available [here](#). As we have stated in previous Bulletins, 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's a **local** option fee, funded by **local** dollars, used for **local** projects approved by the **local** legislative body of the municipality adopting the fee. It would be unfortunate if citizens are not given the opportunity to decide for themselves whether to fund needed transportation projects and services by a minimal increase in this fee. We hope the House and Senate will support local control by overriding this veto.

### **Utility Valuation Bill Approved**

The governor has signed [HB 700](#), the bill that establishes a uniform methodology for determining the value of public utility assets for local property tax purposes. The new law uses a formula based on a blend of the original cost and the net book cost of the utility company's assets in each municipality. It applies only to distribution assets, not to generation or transmission assets, and not to fee-owned land, office buildings, garages, or warehouses. The formula will be phased in over a five-year period, beginning with the 2020 tax year.

### **Other Bills Signed**

More bills will continue to make their way to the governor's desk over the next few weeks and come back with or without his signature. Among the bills that have already been signed and will take effect soon are:

***Planning and zoning board procedures.*** Two bills will make planning and zoning board procedures a bit more flexible. [HB 245](#) amends RSA 676:4, I(b) to allow a planning board to shorten the 21-day minimum period that an applicant must file an application prior to the meeting at which it will be considered for acceptance. [HB 136](#) gives a zoning board of adjustment 45 days (rather than 30) to hold a public hearing after an appeal is filed. Both changes will take effect July 9 of this year.

***City planning board members may hold other positions.*** [HB 370](#) removes the prohibition in RSA 673:7 on city planning board members holding other municipal offices. Under the new law, city planning board members will be subject to the same rule as town planning board members: there is no limitation on their holding other positions, except that no more than two of them may serve on any other board or commission, and no more than one may serve on the conservation commission, the local governing body, or a local land use board. The new law takes effect on August 20.

**RTK exemption for certain IT records.** [HB 329](#) exempts records pertaining to information technology systems from disclosure under the Right-to-Know Law if release of the records would disclose security details that would aid an attempted security breach or circumvention of law. The exemption is effective as of August 4.

**Delay or denial of records under RTK.** Under current law, when a public agency is not able to make records available immediately pursuant to a Right-to-Know Law request, it has five days to (1) make the records available, (2) deny the request in writing with reasons, or (3) provide a statement of the time necessary to determine whether the request will be granted. Under [HB 396](#), a public body or agency exercising the third option will now also need to explain the reason for the delay. Further, if the request is denied in whole or in part, the public body or agency must provide a written statement of the exemption that authorizes withholding of the record and a brief explanation of how the exemption applies. The new requirements are effective January 1, 2020.

**Code violation notices must specify code section.** [HB 259](#) requires a code enforcement officer to cite the applicable section of the building code or fire code when issuing a notice of violation. The new requirement takes effect August 4.

There will be many more by the time the dust settles. Please look for our Final Legislative Bulletin in early August, in which we will summarize all new laws affecting municipal government.

## The End

This will be our last regular Legislative Bulletin for this legislative session. We (mostly) enjoy writing it, and we appreciate your feedback. We wish everyone—municipal officials, legislators, and anyone else reading this—a warm, sunny, and long summer.

2019 NHMA UPCOMING EVENTS FOR MEMBERS	
July 10	<b>Webinar:</b> Right-to-Know Law and Governmental Records
July 23	Regional RTK and Governmental Meetings (6:30 p.m. - Keene)
Aug. 6	Regional RTK and Governmental Records (1:30 p.m. - Moultonborough)
Aug. 14	<b>Webinar:</b> ZBA Basics in New Hampshire
Sep. 18	2019 Budget and Finance Workshop (Derryfield Banquet Fac., Manchester)
Sep. 26	2019 Budget and Finance Workshop (Mt. Club on Loon, Lincoln)
Oct. 5	2019 Fall Land Use Law Conference ( <i>Formerly Municipal Law Lectures</i> )
Oct. 9	Regional RTK and Governmental Records (1:30 p.m. - Lebanon)
Nov. 13-14	NHMA's Annual Meeting and Conference, Manchester NH

To register for an upcoming event, go to our website: [www.nhmunicipal.org](http://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.