

LEGISLATIVE BULLETIN

House to Vote on Costly Retirement Bills

As we explained in [last week's Bulletin](#), several costly retirement-related bills are on the House calendar for votes next week. **HB 1341** increases benefits for certain New Hampshire Retirement System (NHRS) group II members (police and firefighters), and **HB 1205** delays the 10 percent reduction for group I members (employees and teachers) until full Social Security eligibility age. **HB 1341** had an initial price tag of **\$143 million**. The committee adopted an amendment that lowers this cost by an indeterminable amount and would require the state to pay 15 percent of the pension costs for local police and firefighters to offset the increase in employer contribution rates. We, along with many legislators, are very skeptical about the state's paying future pension costs for local governments, since similar bills have failed in recent years. Whatever the cost of **HB 1341**, it will most likely be paid by employers over the next 20 years through increased pension contribution rates.

HB 1205 will cost **\$37 million** and will also be paid by increased employer contribution rates over the next 20 years. The pension cost increases from these two bills will be *in addition to* the increase that employers will see July 1, 2021 due to the cost-of-living adjustment enacted last year in **Chapter 340 (HB 616)**. The estimated cost of that increase alone to local governments (municipalities, counties, and school districts) is in excess of **\$100 million** over 20 years. All of this adds to the current NHRS unfunded liability of **\$5 billion!** As the executive director of the New Hampshire Retirement System consistently warns, the most important thing to do when trying to get out of a hole is to **STOP DIGGING THE HOLE DEEPER!**

Please contact your **representative(s)** and urge them to stop digging the pension hole deeper. Ask them to oppose **HB 1341** and **HB 1205** by voting "No" on the committee recommendation of Ought to Pass.

Say No to Zoning Mandates

The Senate Election Law & Municipal Affairs Committee now has in its possession two bills that would impose sweeping statewide zoning mandates on municipalities. Both have had hearings, and we have written about both, but we want to emphasize the importance of opposing both bills.

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Short-term and vacation rentals. The first bill, [SB 458](#), would require municipalities to allow short-term and vacation rentals of single- and two-family dwellings, regardless of where they are located. (The bill as introduced applies to one-to-four-family dwellings, but an amendment offered by the sponsor would change it to just single- and two-family dwellings.) As we reported in [last week's Bulletin](#), the only support for this bill at the committee hearing came from the Association of Realtors and a trade association that represents companies like Airbnb and Expedia, which stand to profit handsomely at the expense of local residents. No property owner testified about any problem with municipal regulations.

As we also explained last week, municipalities that are facing a demand for short-term rentals are working hard to balance that demand against the concerns of neighbors and the general public by drafting ordinances that make reasonable accommodations for short-term rentals. In other words, the issue is already being addressed where it should be, at the municipal level. Of 234 municipalities in the state, we know of only one (and it is not a popular vacation destination) that has prohibited short-term rentals. Cities and towns do not need the heavy hand of the legislature to force a solution to a problem that does not exist.

Tiny houses. The second bill, [SB 482](#), would require every municipality to allow “tiny houses” as a matter of right in every zoning district where single-family dwellings are permitted. This is a mandate that no other form of housing enjoys—not manufactured homes, not workforce housing, not accessory dwelling units.

As we stated in [last week's Bulletin](#), we have nothing against tiny houses, but there is no evidence of a significant demand for them in New Hampshire. At the hearing this week, the bill was promoted as a solution to the affordable housing problem—and yet neither New Hampshire Housing nor any other affordable housing organization spoke in support of the bill. Further, several supporters of the bill talked about their desire to own “tiny houses on wheels” so they can move and take their houses with them. We question the wisdom of making rules to accommodate a small group of people who are then going to pack up and leave.

Notably, of the people who spoke in support of the bill, not one mentioned having made any effort to change their municipality’s zoning ordinance to accommodate tiny houses. In fact, one of the proponents, a resident of South Hampton, was asked during the hearing whether she thought the town would support a zoning change to allow tiny houses. She replied that from talking to residents, she thought they would support such a change.

What, then, is the problem? If you want to change your town’s zoning, the place to start is the town’s planning board and the town meeting, not the New Hampshire Senate. Traditionally, most legislators support the idea, and we agree, that local problems should be addressed locally, and statewide legislation should be a last resort. Here, as with the short-term rental bill, it is being used as a *first* resort. If these bills succeed, what is to stop any resident (or non-resident) from running to the legislature for a state-mandated fix for every minor zoning complaint?

The committee could be voting on these bills as early as next Wednesday, February 19. ***Please, please, please*** contact members of the [Election Law & Municipal Affairs Committee](#), and your own senator, and ask them to respect local authority by **opposing SB 458 and SB 482**.

Net Metering in Jeopardy

The outlook for municipalities interested in expanded net metering is bleak after the House Science, Technology & Energy Committee voted this week to recommend killing one net metering bill and passing another.

On its face, the committee's action looks positive. It voted Ought to Pass with Amendment on **HB 1218**, the “omnibus” net metering bill, which NHMA supports. The bill would increase the capacity limit for net metering projects to five megawatts, from one megawatt.

The problem is that the governor has made it clear that he would veto **HB 1218**, which is similar to bills he has vetoed the last two years. Repeated efforts to override those vetoes have failed.

Meanwhile, the committee also took up **HB 1402**, the bill that would allow expanded net metering only for “municipal hosts.” It is much more limited than **HB 1218**, but it would be of great benefit to many municipalities—and, importantly, the governor supports it. Yet, rather than recommend **HB 1402** for passage, the majority of the committee voted to recommend Interim Study—which is the same as killing it—and put its language in an amendment to **HB 1218** as a purported compromise with the governor's position.

Everyone knows, however, that the governor will still veto **HB 1218**. Thus, both bills will die sooner or later, and nothing will be accomplished. Regardless of what the committee did with **HB 1218**, it could and should have voted to pass **HB 1402** as a stand-alone bill—everyone supports it—but it seems to have been more interested in reaching for the unattainable.

So many aphorisms come to mind. Half a loaf; a bird in the hand; the perfect as the enemy of the good. This situation illustrates them all. We understand that this is all about politics, but municipalities are more interested in results. The likely result of the committee's all-or-nothing strategy is clear: municipalities won't get half a loaf, or even a slice.

But there is still hope. Both committee votes—Ought to Pass with Amendment on **HB 1218** and Interim Study on **HB 1402**—were by 12-8 margins. The 12-8 vote indicates there is significant support for **HB 1402**.

These bills will go to the House floor **next Wednesday or Thursday, February 19 or 20**. If yours is one of the many municipalities that would benefit from being a municipal host—or even if not—please ask your representatives to **support both HB 1218 and HB 1402**. With respect to **HB 1402**, they should (1) **vote NO** on the committee recommendation of Interim Study, and then (2) **vote Yes** on a subsequent motion of Ought to Pass with Amendment. On **HB 1218**, they simply need to **vote Yes** on the committee's recommendation of Ought to Pass with Amendment.

Got Cameras? Maybe Not for Long.

On Wednesday the House Judiciary Committee heard **HB 1226**, which would effectively prohibit municipalities from installing surveillance cameras that point at roads and sidewalks, with a \$1,000 penalty plus attorney fees for a violation. NHMA opposed the bill.

The existing surveillance statute, RSA 236:130, prohibits “surveillance” on public ways, defined as “the act of determining the ownership of a motor vehicle or the identity of a motor vehicle's occupants . . . through the use of a camera or other imaging device. . . that . . . can be used to determine the ownership of a motor vehicle or the identity of a motor vehicle' s occupants.” While the existing statute prohibits the *act* of determining ownership or identity, **HB 1226** would prohibit the use, for *any* purpose, of a camera merely because it is *capable* of determining ownership or identity.

There are several exceptions in the existing law, and although the bill would leave those exceptions in place, many of them would be rendered useless. For example, under current law, a municipality may use its lawfully installed cameras to determine the ownership of a motor vehicle or the identity of its occupants on a case-by-case basis in the investigation of a particular crime. Under the language of this bill, to have that exception apply, a municipality would have to be able to predict that a specific crime was going to occur in the future before it would be allowed to install the cameras.

More concerning, under the proposed change, any municipality that currently has surveillance cameras on its buildings would have to ensure that the cameras are angled such that any footage of the road or sidewalk is “incidental” to the monitoring of the building. Of course, many municipalities have cameras on their police departments, town halls, public works buildings, recreation buildings, etc., for security purposes, and many of those cameras are aimed directly at the street, for good reason. If there is a burglary or other incident, it’s more useful to have footage of the vehicle dropping the bad guy off in front of the building than just footage of someone in a mask rifling through filing cabinets inside the building.

Please encourage members of the [Judiciary Committee](#) and your own representatives to *oppose* **HB 1226**.

PFAS Funding and Standards Pass the Senate

On Thursday the Senate unanimously passed two bills dealing with perfluorochemicals known as PFAS. **SB 496**, an **NHMA policy bill**, would provide state financial assistance toward the costs of meeting water and wastewater quality standards associated with PFAS. The bill as amended by the Senate authorizes the state treasurer to issue up to **\$50 million** in bonds against the credit of the state for the sole purpose of providing low-interest loans to water and wastewater systems for PFAS remediation projects. Last week’s [Bulletin](#) included additional details about **SB 496**.

SB 287 as amended by the Senate places into statute the PFAS standards enacted last fall by the Department of Environmental Services through administrative rules.

Discussion on the Senate floor highlighted the bipartisan support that enabled these bills to move forward to both protect public health and address the costs to comply with PFAS standards. NHMA’s efforts on **SB 496** were acknowledged by several senators. To listen to the Senate discussion on **SB 496** and **SB 287**, go to the February 13, 2020, Senate session streaming media page by clicking [here](#). **SB 496** begins at 11:14:01 and **SB 287** follows at 11:30:04.

Please thank your senator for supporting state assistance for the costs of PFAS remediation.

PACE Bill Raises Concerns

On Wednesday the House Science, Technology and Energy Committee voted 11 to 8 to recommend Ought to Pass on [amendment 2020-0499h](#) to **HB 1684**, dealing with a property assessed clean energy (PACE) program for commercial property. As introduced, the bill established a state loan program for energy conservation and improvement projects involving the Public Utilities Commission, the State Treasury, and the Department of Revenue Administration. Subsequent to the public hearing (at which NHMA did not testify since this was a state-administered program), the bill was amended to remove all state involvement and to place the authorization of private investments for clean energy efficiency projects into RSA 53-F, the current statute authorizing the establishment of municipal PACE districts and financing.

RSA 53-F is enabling legislation that was enacted in 2010 and authorizes a financing arrangement for clean energy efficiency projects by tying into the municipal property tax billing, collection, and lien process. While there may be a handful (or less) of municipalities that have established a PACE district, we are not aware of any clean energy efficiency projects that have been financed in those districts pursuant to RSA 53-F. The amendment to **HB 1684** seeks to allow private investments (loans) to eligible commercial and multi-unit residential (five dwelling units or more) clean energy efficiency projects, with the financing of those projects repaid by special assessments on property tax, water, or sewer bills. The special assessment creates a municipal lien that runs with the property, not with the property owner. The municipal collection, lien, and deeding provisions of RSA 80 would apply to these special assessments.

Our concern with RSA 53-F in the past, and more so with the changes proposed in the amendment to **HB 1684**, is the considerable amount of responsibility, liability, and risk placed on municipalities. While most municipal officials would likely support investment in clean energy projects in their communities, we are concerned with the mechanics of doing so under this legislation.

We have been told that if the amendment to **HB 1684** passes the House, it will then go to a second House committee – the Municipal and County Government Committee – for a public hearing. We will keep you posted on legislative activity with **HB 1684**.

Perambulation Survives Another Attack of Reason

The House Municipal & County Government Committee this week reaffirmed once again the importance of sending selectmen into the woods every seven years to walk their town boundaries. By a 5-12 vote, the committee rejected a motion of Ought to Pass with Amendment on **HB 1441**, which would repeal the perambulation requirement that almost no one observes. The committee then voted 16-1 to report the bill as Inexpedient to Legislate.

As in past years, no one made a serious attempt to explain why this odd requirement should persist in the 21st century. Committee members supporting the repeal pointed out, again, that 48 other states do not require perambulation—46 of them never did—and yet somehow life goes on in those states. One committee member tried rebutting that point by repeating the claim made by a witness at the hearing that towns in other states are all square, with perfectly straight lines. Although demonstrably untrue, that “alternative fact” seemed to carry the day.

The ITL recommendation is on the House’s consent calendar for next week. Barring an unforeseen development, it appears that this peculiar law will continue to baffle selectmen for at least another year.

Governor Presents State of the State Address

On Thursday Governor Sununu presented his State of the State address to a joint session of the House and Senate. In his initial remarks he commented on the record turnout for New Hampshire’s first-in-the-nation primary, acknowledging and crediting “our city and town officials, moderators, clerks and supervisors of the checklist” for a successful primary.

The governor highlighted several accomplishments during the past year, including the strength of the state’s economy and workforce; property tax relief and education funding provided in the 2020-2021 budget; creating the most accurate, science-based drinking water standards in the country; advancements in dealing with mental health and addiction issues; addressing issues important to seniors and veterans; and more. The full text of the governor’s State of the State address is available [here](#).

HOUSE CALENDAR

TUESDAY, FEBRUARY 18, 2020

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. **HB 1514**, relative to the presence of a fire department at a class B fireworks display.

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

1:00 p.m. **HB 1570-FN**, establishing an architectural paint program.

3:00 p.m. **HB 1702**, establishing a solid waste working group on solid waste management planning.

3:30 p.m. **HB 1704**, relative to compost.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

9:30 a.m. **HB 1309**, relative to the effect of warrant articles.

10:00 a.m. **HB 1105-L**, relative to warrant articles in official ballot town, school district, or village district meetings.

10:30 a.m. **HB 1173-L**, relative to the use of an official ballot in towns.

11:00 a.m. **HB 1115**, relative to the discharge of a firearm in the compact part of a city or town.

TUESDAY, FEBRUARY 25, 2020

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

10:00 a.m. **HB 1211**, relative to a capital reserve fund in towns under the control of the budget committee.

10:30 a.m. **HB 1352**, relative to municipal budget meetings.

11:00 a.m. **HB 1451**, relative to the definition of contracts relative to official ballot default budgets.

11:30 a.m. **HB 1460**, relative to the form of municipal budgets.

SENATE CALENDAR

TUESDAY, FEBRUARY 18, 2020

ENERGY AND NATURAL RESOURCES, Room 103, SH

9:00 a.m. **SB 493-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 and to review the LCHIP surcharge.

JUDICIARY, Room 100, SH

9:45 a.m. **SB 487**, repealing the housing appeals board and establishing a commission to advance affordable housing in New Hampshire.

TRANSPORTATION, Room 103, LOB

2:00 p.m. **SB 723-FN-L**, relative to winter highway maintenance exemptions.

2:15 p.m. **SB 724-FN**, relative to removal of abandoned or disabled vehicles by towing.

WEDNESDAY, FEBRUARY 19, 2020

ELECTION LAW AND MUNICIPAL AFFAIRS, Room 102, LOB

9:00 a.m. **SB 631-FN**, authorizing online voter registration.

10:00 a.m. **SB 695-FN**, relative to sharing voter registration information.

HOUSE FLOOR ACTION

Thursday, February 13, 2020

HB 1113-FN, relative to workers' compensation for heart and lung disease in firefighters. **Passed.**

HB 1288, relative to the form of a candidate's name on the official ballot in nonpartisan town elections. **Passed with Amendment.**

HB 1296, requiring certain candidates for municipal office to comply with certain campaign finance laws. **Inexpedient to Legislate.**

HB 1304-FN, requiring workers' compensation to cover prophylactic treatment for critical exposure. **Passed.**

HB 1439, relative to notification of zoning determination announcements and to appeals to the zoning board of adjustment. **Inexpedient to Legislate.**

HB 1450, relative to the powers of the zoning board of adjustment. **Inexpedient to Legislate.**

HB 1452, relative to employees of public libraries. **Inexpedient to Legislate.**

HB 1568-FN-LOCAL, prohibiting town employees and elected officials from profiting from businesses with which the town does business. **Inexpedient to Legislate.**

HB 1572-LOCAL, establishing the New Hampshire local election participation act. **Inexpedient to Legislate.**

HB 1583-FN, relative to the identification of law enforcement vehicles. **Inexpedient to Legislate.**

HB 1615-FN, requiring criminal background checks for persons brought into a library to interact with minors in library-sponsored events. **Inexpedient to Legislate.**

HB 1649-FN-A, establishing a road usage fee and making an appropriation therefor. **Inexpedient to Legislate.**

SENATE FLOOR ACTION

Thursday, February 13, 2020

SB 287-FN, requiring the commissioner of the department of environmental services to revise rules relative to perfluorinated chemical contamination in drinking water. **Passed with Amendment.**

SB 305-FN, relative to the establishment of an election information portal. **Interim Study.**

SB 422, relative to changes of registration of voters at primary elections. **Passed with Amendment.**

SB 475, enabling municipalities to adopt a property tax credit for densely-built workforce housing. **Passed with Amendment.**

SB 485, relative to the disqualification of certain persons from performing duties as an election official. **Passed.**

SB 488, relative to public inspection of absentee ballot lists. **Inexpedient to Legislate.**

SB 489, relative to the absentee ballot application process. **Inexpedient to Legislate.**

SB 496-FN, relative to municipal water pollution control. **Passed with Amendment; referred to F-S.**

SB 543-FN, relative to group II retirement system status for certain department of corrections officials. **Passed.**

SB 560-L, relative to placing Keno on a warrant. **Inexpedient to Legislate.**

SB 563, relative to authorizing the issuance of bonds or notes by a municipality. **Passed.**

SB 616, establishing a committee to study the meals and rooms tax distribution formula. **Inexpedient to Legislate.**

SB 617-FN, relative to a voluntary additional charge in the registry of deeds used to support the land and community heritage investment program (LCHIP), and establishing a committee to study the economic impact of land conservation and to review the LCHIP surcharge to the land and community heritage investment program. **Inexpedient to Legislate.**

SB 659-FN, relative to agricultural and farm motor vehicle plates. **Passed with Amendment.**

2020 NHMA UPCOMING MEMBER EVENTS	
Feb. 26	Webinar: Retooling Your Zoning to Improve Housing Affordability and Supply
Mar. 18	Webinar: The Art of Welfare
To register for an upcoming event, go to our website and click on the Events & Training tab at the top to access the Full Calendar.	
For more information, please call NHMA's Workshop registration line: (603) 230-3350.	