

LEGISLATIVE BULLETIN

Committees of Conference Begin Meeting

Yesterday was the deadline for the House and Senate to form committees of conference, and next Thursday, June 17, is the deadline for the committees to issue their reports. That means some legislators—especially senators, most of whom are on several such committees—are going to have a busy week. In particular, the committees of conference on the budget bill (**HB 1**) and the budget trailer bill (**HB 2**) have their work cut out for them; the committee on **HB 1** is getting a quick start, meeting this morning at 11:00. (The most recent documents related to the operating and capital budgets for fiscal years 2022-2023—**HB 1/HB 2** and **HB 25**, respectively—are available on the [Legislative Budget Assistant’s website](#).) You can find information about committee meeting times and locations on the [“Committees of Conference” page](#) on the [General Court website](#).

When they were not creating committees of conference, the House and Senate spent much of yesterday concurring (or, in a few cases, not concurring) with each other’s amendments. Those bills on which the two chambers have reached agreement are now on their way to the governor’s office (with a few stops along the way—see “What’s Taking So Long?” below).

There will be no House or Senate session next week. Their next, and last, sessions will be on Thursday, June 24, to act on all committee of conference reports.

No More Virtual Meetings

The current state of emergency, first declared on March 13, 2020, and extended every three weeks since then, expires tonight at midnight, and the governor announced yesterday that he will not extend it. This means that [Emergency Order #12](#), which has authorized public bodies to meet without a physical location for the last 15 months, also expires at midnight tonight.

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Thus, any public body that is meeting tomorrow or later must meet in person and allow the public to attend at the location of the meeting. The requirements of [RSA 91-A:2, III](#), regarding remote participation will apply:

- The public body may allow one or more members to participate remotely if in-person attendance is not reasonably practical.
- However, a quorum must be physically present at the meeting location, except in an emergency (as defined in the statute).
- Each part of the meeting must be audible “or otherwise discernable” to the public at the location of the meeting.
- Several other very specific requirements must be observed.

If a public body has provided notice about a meeting that was going to occur only virtually, with no physical location, it will need to provide a new notice indicating the physical location of the meeting. Depending on the timing, this may require rescheduling the meeting. ***We strongly urge local officials to consult with their municipal attorney about rescheduling meetings and providing appropriate notice.***

This also means that the legislature’s committees of conference will meet in person and will be open to the public at the state house or legislative office building, but in-person attendance is not encouraged. A notice on the General Court website states:

The State House and Legislative Office Building (LOB) will reopen to the public on Monday, June 14th. . . . Committees of Conference will be open to the public, however, room capacity is limited and standing will not be allowed. Remote public access is available and strongly encouraged. Live streaming of House and Senate sessions will continue.

Committee Approves ARPA Fund Use for Water/Wastewater

On Tuesday the [Joint Legislative Fiscal Committee](#) held a special meeting and voted in favor of a number of spending items that use federal funds received from the state’s allocation of American Rescue Plan Act of 2021 (ARPA), as their sole source of funding. Included among those items was a May 27 letter from the Department of Environmental Services (DES) which requested authorization to accept and expend **\$50 million** to fund investments in drinking water and wastewater infrastructure effective July 1, 2021, through June 30, 2023, upon fiscal committee and governor and executive council approval. Among the DES’s “[Requested Actions](#)” is **\$36.3 million in grants** and **\$10 million in loans** to “complement the existing Clean Water and Drinking Water State Revolving Fund programs as well as the Drinking Water/Ground Water Trust Fund in providing grants/loans for water and sewer infrastructure improvements.” In addition, DES’s request states the initial appropriation will allow NHDES to put the necessary staff (7 full-time, temporary positions) in place to manage the infrastructure program and begin to award grant funding to entities. It was reported that DES received **406 pre-applications** for funding which totaled just under **\$1 billion** prior to the June 1, 2021, pre-application deadline for the state’s revolving loan programs for both drinking water and wastewater. The fiscal committee’s next regular meeting is scheduled for Friday, June 18, at 10 a.m.

Beyond the Budget—Other Municipal Bills

Here are some of the actions the House and Senate took yesterday on bills of municipal interest:

Attorney-client privilege. On [HB 108](#), the extremely important bill that corrects a recent ruling by the New Hampshire Supreme Court, the House and Senate agreed to the creation of a committee of conference. The bill as passed by the House made a small change to the Right-to-Know Law, which we do not like but can live with. After the supreme court stunned the legal world in April by ruling that communications between an attorney and a governmental client are subject to disclosure, the Senate added an amendment to **HB 108** to fix that error. (The court itself has indicated that it will reconsider the decision, but it almost never reverses its own rulings.) The Senate also added an amendment allowing public bodies to continue to hold virtual meetings as they have done during the present state of emergency. We would very much like to see the committee keep the virtual meeting provision, but by far the most important part of the bill is the provision that protects attorney-client communications from disclosure. We hope that will not be controversial.

Virtual meetings. The Senate requested a committee of conference after the House amended **SB 95** to delete the authority for public bodies to hold virtual meetings. However, the House did not accede to that request, so **SB 95** is dead. The explanation for that decision was that the Senate had added the virtual meeting provision to **HB 108** (see above), so the issue will be resolved by the committee of conference on that bill, rendering **SB 95** unnecessary.

Form of municipal budgets. The House concurred with the Senate’s amendment to [HB 243](#). This was a good result. The bill as passed by the House would have required towns to prepare their budgets using “a full line item detail in industry-standard electronic spreadsheet format,” without defining those terms, and would have required that the budget be “published”—without saying how or where—within five days after any revisions are made. The Senate version eliminates those requirements and essentially merely requires that all budget details be made available to the public, as they should be already.

Pre-processing absentee ballots; separate federal and state elections. On a party-line vote, the Senate concurred with the House amendment to [SB 89](#). The Senate version would have allowed for pre-processing of absentee ballots at state and municipal elections, as was permitted during the fall 2020 elections—a very useful and popular program. Unfortunately, the House deleted that provision.

It also added a section, discussed in [Legislative Bulletin #21](#), stating that if Congress enacts the “For the People Act,” elections for state and county offices (as opposed to federal offices) in New Hampshire would nevertheless follow “all procedures and requirements relating to elections conducted pursuant to the New Hampshire constitution and as prescribed by New Hampshire law.” As we explained previously, this would lead to a mess in which completely different rules govern state and federal elections in New Hampshire, and most likely there would be two different elections—one for federal offices and one for state offices—every other November.

At this point, the best hope for avoiding an electoral disaster is that the “For the People Act” either dies in the U.S. Senate or is amended to eliminate the provisions that would make the conduct of elections in New Hampshire literally impossible. Currently the bill seems unlikely to pass, but we plan to communicate our concerns to New Hampshire’s United States senators; we encourage local election officials to do the same.

Health Officer Bill Signed into Law

The governor signed **HB 79** last week, modifying a number of statutes related to municipal health officials. As reported in [Bulletin # 6](#), **HB 79** is geared toward enabling health officers to integrate their local expertise better with the public health expertise at the Department of Health and Human Services (DHHS).

On Wednesday, June 23, NHMA is partnering with DHHS to provide free, online training focusing on the changes **HB 79** makes to the town health officers statute, RSA chapter 128. Feel free to join us on Zoom from 9:00 to 10:00 a.m. to learn about these changes. No advance registration is required. The Zoom link is: <https://nh-dhhs.zoom.us/j/98896346642?pwd=R1JUUV1hSZ1hRMUstNStSQlpNaHRXZz09>.

What's Taking So Long?

We frequently get questions this time of year about what is taking so long for a bill to be signed into law. Many people are aware that the governor has five days (excluding Sundays) to sign or veto a bill once it gets to his office. So if a bill passed the second chamber in early May without amendment, shouldn't it have become law by now?

It's not quite that simple. Here is the process (approximately) once both houses have agreed on the final language of a bill:

- The last chamber to possess the bill delivers it to the Office of Legislative Services (OLS), which reviews it to determine whether an enrolled bill amendment is needed. (An enrolled bill amendment is a technical amendment to correct minor language errors, cross-references, and similar things.)
- If an enrolled bill amendment is needed, it is drafted and sent to the House and Senate clerks, who read it into the record and return the bill to OLS.
- OLS sends the bill (whether amended or not) to the secretary of state's office, which prepares an enrolled bill report. That report is signed by a member of the House Enrolled Bills Committee and a member of the Senate Enrolled Bills Committee.
- The enrolled bill report is delivered to the House and Senate clerks, who each read it into the record.
- The secretary of state delivers the bill to the Speaker of the House, who signs it and returns it to the secretary of state. The secretary then delivers it to the president of the Senate, who signs it and returns it to the secretary.
- The secretary of state's office stamps the date and time on the bill, and the secretary signs it and delivers it to the governor, starting the five-day clock.

Understandably, this can take a while. It is an extremely busy time of year for most of the people involved, and other things can get in the way. Some bills move through the process faster than others—sometimes because there is a legitimate rush (*e.g.*, the budget), sometimes because of some political calculation, and sometimes for no apparent reason. A bill that cleared the second chamber in April might not make it to the governor until July, while one that didn't pass until early June could get there the next week. If you are waiting for a bill to be signed, unless you are a true insider, there is not much you can do except wait.

In a budget year, we can reasonably expect that the governor will be signing (or vetoing) bills well into July, and sometimes later. In 2019, there were about 20 bills that were not signed until late August or early September—including the budget bills, which were vetoed on their first go-around. That was unusual, but late July or early August signings (for non-budget bills) are not uncommon.

Unless something unusual happens, our last Legislative Bulletin will be published on June 25; and many bills will be signed (or not) after that date. If you want to know what is happening with a bill after June 25, check the general court’s website, or feel free to contact NHMA’s government affairs staff.

HOUSE FLOOR ACTION

Friday, June 4, 2021

SB 26, relative to roads within the Woodsville Fire District. **Passed.**

SB 52, (New Title) relative to municipal charter provisions for tax caps. **Passed.**

SB 86-FN, adopting omnibus legislation relative to planning and zoning. **Passed with Amendment.**

SB 91, (New Title) adopting omnibus legislation on renewable energy and utilities. **Passed with Amendment.**

SB 102, adopting omnibus legislation on property taxation. **Passed.**

SB 131-FN, (New Title) adopting omnibus legislation relative to vehicles, municipal water maintenance certificates, nondriver’s picture identification, and firefighter and emergency medical services decals. **Passed with Amendment.**

SB 146-FN, adopting omnibus legislation relative to the environment. **Passed with Amendment.**

2021 NHMA UPCOMING MEMBER <u>VIRTUAL</u> EVENTS	
Weekly	Friday Membership call (1:00 – 2:00)
June 17	The Art of Welfare (9:00 – 1:15)
June 21	Webinar: NLC’s Race, Equity and Leadership (REAL) 100 (3:30 – 5:00)
June 22	Webinar: The Right-to-Know Law & Governmental Records (12:00 – 1:00)
June 23	The Academy for Good Governance (5:00 – 7:00 p.m.)
June 28	Webinar: NLC’s Race, Equity and Leadership (REAL) 200/300 (3:30 – 5:00)
June 29	Collective Bargaining (9:00 – 12:00)
Please visit www.nhmunicipal.org Click on the Events and Training tab to view the calendar. For more information, please call NHMA’s Workshop registration line: (603) 230-3350.	