

LEGISLATIVE BULLETIN

House Session Wednesday & Thursday

Activities at the state house are a little slower next week for most committees. The House is scheduled to meet the afternoon of February 16th. The next day, the Governor will deliver his State of the State Address to the Joint Convention of the House and Senate, after which the House will conduct further legislative business.

City Council Powers

On Tuesday, February 15, at 11:30 in LOB Room 301-303, the House Municipal & County Government Committee will hear testimony on [HB 1268](#), amending [RSA 47:17](#), XV to alter the language allowing city councils to enact bylaws and regulations which may seem for the well-being of the city. As written, the bill replaces that language to read “the bylaws and regulations *for the purpose of addressing locations that present a clear and present danger to the city*; but no bylaw or ordinance shall be repugnant to the constitution or laws of the state; and such bylaws and ordinances shall take effect *upon their adoption* and be in force *for a period not to exceed 10 days*, without the sanction or confirmation of any other authority whatever.”

We anticipate that an amendment is forthcoming. For that reason, local officials interested in this bill are encouraged to attend the hearing in LOB Room 301-303 on Tuesday. We anticipate that the committee will want to hear about the kinds of local issues that are solved pursuant to the current statute at the local level, and the consequences if the state legislature is burdened with providing solutions to these local concerns.

Restrictive Short-Term Rentals Bill Moves Forward

On Thursday, the Senate Commerce Committee voted 5-0 to recommend [SB 249 Ought to Pass](#) with an [amendment](#). As we wrote in [Bulletin #7](#), this bill prohibits local zoning ordinances from regulating the location of short-term rentals. This statewide zoning prohibition does not take into account the different circumstances in different communities, and it removes decision-making from the government closest to the residents who are directly affected by the proliferation of short-term rentals.

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The amendment adopted by the committee made just a small change to the bill by adding “other municipal ordinances” to a limited list of municipal regulatory authority that a municipality would have, and allowing a municipality to establish a reasonable fee to cover “all costs” associated with conducting an inspection of a short-term rental property.

The bill will go to the full Senate next Wednesday, so it is not too late to speak with your senator and to ask him or her to oppose **SB 249**. Even for local officials not currently dealing with short-term rentals, zoning decisions are local decisions, and this bill directly contradicts that.

Remote Meetings Bill in Jeopardy

Yesterday, the Senate Judiciary Committee voted to recommend **SB 344** for interim study. **SB 344** makes a modest change to public meetings law under RSA 91-A:2: it removes the requirement that a quorum be physically present at the meeting location. Importantly, it does not allow for public meetings to be fully virtual. As one committee member correctly noted during the executive session, this bill still requires that all public meetings have a physical location, so members of the public will still have the same ability to attend the meeting in person if they wish to do so. The important added benefit of passing **SB 344** is that members of the public will also be able to attend remotely, as will members of the board.

This bill is a response to the many local officials—and their constituents—looking for more flexibility in the use of remote meeting participation. It is not an effort on the part of local governments to have purely remote meetings (again, the bill would not allow them to) or to avoid facing their constituents. While COVID-19 may have created the initial need for more remote meetings nearly two years ago, it is not the reason this change in law is so important. Public body members are parents, employees, and caretakers; they get sick, they travel out of state for work, and they have difficulty commuting due to inclement weather. The same is true of members of the public who may not be able to attend in person but still wish to listen or participate. **SB 344** ensures that public bodies can meet even if a quorum can’t make it to the meeting place in person.

We have been hearing from local officials since the expiration of the state of emergency in June 2021 that more flexibility is needed for remote attendance at public meetings, and **SB 344** can solve that problem. A vote for interim study is effectively a vote to kill the bill. We ask all members interested in having more flexibility for public meetings to [contact their senators](#) as soon as possible and ask them to reject the committee recommendation and vote *Ought to Pass* on **SB 344**.

Tiny Houses

On **Tuesday, February 15**, at **9:30** in **LOB Room 301-303**, the **House Municipal & County Government Committee** will hear testimony on **HB 1068**, which defines “tiny houses” and provides for some municipal regulation of those houses. We saw similar legislation that we wrote about in [Bulletin #7 in 2020](#) and [Bulletin #9 in 2021](#).

Importantly, this bill, as in prior years, defines the term “tiny house” and requires that municipalities allow them “as a matter of right in all zoning districts that permit single family homes.” The term “tiny house” is defined as “a structure intended for year-round occupancy that meets the requirements of the state building code, as defined in RSA 155-A, and is of a smaller square footage than may be normally permitted by local zoning requirements, and may include single-room structures, and which is built on either a permanent

foundation or on a chassis that is suitable for registration for transport on public highways of the state.” This definition would conflict with the definition in Appendix Q and promote some uncertainty in how municipalities are to apply both provisions.

As we have written previously, we have nothing against tiny houses, but this is a matter to be decided locally, not at the state level. If there is a popular demand for tiny houses, there is a simple way to accommodate that demand: amend the local zoning ordinance. In fact, it was just last year that municipalities were given the option to allow tiny houses under the state building code. SB 15 in 2021 adopted a number of amendments to the state building code, including Appendix Q. Appendix Q pertains to the regulations applicable to “tiny houses,” and defines that term as a dwelling that is 400 square feet or less. Furthermore, to the extent tiny houses are seen as a solution to the shortage of affordable housing, municipalities are already required to afford “reasonable and realistic opportunities for the development of workforce housing.” That may include tiny houses, multi-family housing, affordable single-family dwellings, or anything else.

Please register your opposition to this bill online using the online [House of Representatives Remote Sign in Sheet](#).

A Local Option on Bags

On **Tuesday, February 15**, at **10:30** in **LOB Room 301-303**, the **House Municipal & County Government Committee** will hear testimony on [HB 1119](#), allowing municipalities to regulate the distribution of single-use plastic bags and paper bags to customers. The bill would amend the municipal ordinance statute, [RSA 31:39](#), to include a new provision related to single-use plastic bags and paper bags. This would give municipalities the option of adopting local regulations and using the existing enforcement mechanism created by RSA 31:39-c and RSA 31:39-d to enforce the regulations.

The legislature has considered single-use item regulation in several forms over the past several years. Largely, bills related to this type of regulation have focused on single-use plastic bags, Styrofoam takeout containers, straws, and a variety of other, manufactured single-use items. Much of the testimony, historically, has focused on alternative products and recycling rates, environmental considerations, and aesthetics. For municipalities, the concern with single-use plastics centers not just on quantity of waste headed to landfills but also the mechanics of recycling. Prior years have seen recycling experts testify to the high rates of plastic bags being placed in home recycling bins and the issues that recycling centers have with those plastic bags getting stuck in and jamming sorting machines. The cost of unjamming the machines and repairing them, as well as “contaminated” loads, lowers the return that municipalities see on recyclable materials.

Members interested in the single-use issue should consider attending the hearing on Tuesday. Prior years have seen the committee discuss alternative options to the one presented in the bill as written; in-person attendance is the best opportunity to weigh in on any options brought to the committee’s attention during the hearing.

State Aid Grants for Wastewater & Water System Projects

On **Tuesday, February 15**, the **Senate Finance Committee** will hear [HB 398](#) and [HB 412](#) beginning at **1:00 p.m.** in **State House Room 103**. These **NHMA policy bills** were retained last legislative session and left with no appropriation due to state budget concerns related to the pandemic. In October, the House Finance Committee recommended Ought to Pass for both **HB 398** and **HB 412**, and the House passed

both bills in January. With *your support* we can attain an Ought to Pass recommendation from the Senate Finance Committee.

HB 398 would appropriate \$5.7 million for fiscal year 2022 and \$6.9 million for fiscal year 2023 to fund the 11 forgotten, eligible wastewater projects not funded in the current biennium, plus 110 new projects that are expected to be eligible for grant funding in fiscal years 2022-23. **HB 412** would appropriate \$500,000 for each of fiscal years 2022 and 2023 for public water supply grants. The state has historically supported these grants, and it is important to advocate for these funding sources to continue in current and future budgets.

There has been discussion that alternate federal funding sources could be used to support these projects, but unfortunately this is not the case. Because these projects were completed prior to March 3, 2020, they are not eligible for federal funding under the American Rescue Plan Act (ARPA). Without **HB 398 and HB 412, Hooksett, Dover, Concord, Nashua, Exeter, Newport, Littleton, and Salem** will be left scrambling to fund these projects entirely locally, rather than being able to rely on the state's longstanding promise to provide funding for these qualifying projects.

*NHMA strongly supports **HB 398 and HB 412** as passed by the House, and urges any affected municipality to contact your senator directly, register your position online with the Senate Finance Committee, provide written testimony, or come in person to testify and express how critical this funding is for your municipality.*

Separate Tax Rates for Residential and Commercial Property

On **Tuesday, February 15, at 2:00 p.m.**, the **Municipal and County Government Committee** will hear **HB 1365** in **LOB Room 301-303**. **HB 1365** would allow municipalities the local option to adopt separate tax rates for residential and commercial/industrial properties. As written, the bill raises questions as to how this division of tax rates might work on the practical level both when assessing property and when setting the tax rate.

The bill proposes a higher tax rate for commercial than residential properties. What we know from states that have adopted this tax scheme is that the intended tax burden shifts from residential properties to commercial/industrial properties. While this *can* have the effect of lowering residential property bills, there are other consequences as well. These higher taxes are often passed through to the tenants of the commercial/industrial property, making it more expensive to operate a business than in another town that does not adopt the higher rate. This can place a commercial/industrial building at a disadvantage in towns that adopt this provision and act as a disincentive for adoption. Even if the immediate effects are not felt, over time, this type of legislation *could* serve to shift commercial/industrial users from one town to another and/or shift residential development from one town to another. It may be wise for the committee to consider the economic impact of this legislation on a municipality in its deliberations.

We encourage our members to contact the **Municipal & County Government Committee** to express their opinions on **HB 1365**.

Update on Bills Related to the New Hampshire Retirement System

In **Bulletin #3**, NHMA highlighted some of the bills related to the New Hampshire Retirement System (NHRS) this session. Among these bills was **HB 1535**, which would provide a cost-of-living adjustment for retirees. **HB 1535** would have a tremendous impact on employer contribution rates and municipal budgets.

A promising amendment has been proposed to this bill that would fund the cost of the COLA from the state general fund. The bill and the amendment are still in committee. With no recommendation made on the original bill or the amendment, it is not too late to contact the [House Executive Departments and Administration Committee](#) and request that it recommend the bill as Inexpedient to Legislate unless the amendment, which would require the state to fully fund the COLA, is adopted.

This week, [HB 1417](#), restoring a portion of the state's NHRS employer contribution at 7.5 percent of the retirement costs for teachers, police, and firefighters, was recommended Inexpedient to Legislate by a committee vote of 10-8. Unless the House votes against the committee recommendation, municipalities are unlikely to see relief for NHRS employer contributions this session.

There is good news, however. [HB 1590](#), one of the most troubling bills, which would have allowed a municipal employer to withdraw new employees from the state retirement system without paying its share of the unfunded accrued liability, was recommended Inexpedient to Legislate by a committee vote of 15-3.

Get Involved in NHMA's Legislative Policy Process

NHMA's biennial legislative policy process is getting underway. As a first step, we are recruiting volunteers to serve on our three legislative policy committees. These committees will review legislative policy proposals submitted by local officials and make recommendations on those policies, which will go to the NHMA Legislative Policy Conference in September.

If you are a municipal official in an NHMA member municipality and are interested in serving on one of the policy committees, please contact the Government Affairs staff at 603-224-7447 or governmentaffairs@nhmunicipal.org.

Each of the committees deals with a different set of municipal issues. The committees and their subject areas are as follows:

- [Finance and Revenue](#) – budgeting, revenue, tax exemptions, current use, assessing, tax collection, retirement issues, education funding.
- [General Administration and Governance](#) – elections, Right-to-Know Law, labor, town meeting, charters, welfare, public safety.
- [Infrastructure, Development, and Land Use](#) – solid/hazardous waste, transportation, land use, technology, environmental regulation, housing, utilities, code enforcement, economic development.

When you contact us, please indicate your first and second choices for a committee assignment. We will do our best to accommodate everyone's first choice, but we do need to achieve approximately equal membership among the committees. We hope to have 15-20 members on each committee.

There will be an organizational meeting for all committees on **Friday, April 1**. After that, each committee will meet separately as many times as necessary to review the policy proposals assigned to it—typically three to five meetings, all held on either a Monday or Friday, between early April and the end of May.

HOUSE CALENDAR

MONDAY, FEBRUARY 14, 2022

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Room 210-211, LOB

- 9:30 a.m. **HB 1481**, repealing the statute relative to medical freedom in immunizations.
2:15 p.m. **HB 1595-FN**, relative to vaccine mandates for government contractors.

TUESDAY, FEBRUARY 15, 2022

MUNICIPAL AND COUNTY GOVERNMENT, Room 301-303, LOB

- 9:00 a.m. **HB 1026**, relative to budget information provided to a budget committee.
9:30 a.m. **HB 1068**, relative to building codes for tiny houses.
10:00 a.m. Continued Public Hearing on **HB 1238**, relative to zoning powers and the supply of workforce housing.
10:30 a.m. **HB 1119**, relative to the regulation of single-use bags.
11:30 a.m. **HB 1268**, limiting the authority for city council bylaws and ordinances.
1:00 p.m. **HB 1289**, relative to applications for abatements and authority to abate prior years' taxes for certain homeowners.
1:30 p.m. **HB 1293**, relative to the design of sewage or waste disposal systems for a person's own domicile.
2:00 p.m. **HB 1365**, allowing towns and cities to tax residential and non-residential property at different rates.
4:00 p.m. **HB 1667**, relative to the standard and optional veterans' tax credits and the all veterans' tax credit.

SENATE CALENDAR

MONDAY, FEBRUARY 14, 2022

ELECTION LAW AND MUNICIPAL AFFAIRS, Room 100, SH

- 1:30 p.m. **SB 365**, relative to absentee ballot outer envelopes.

TUESDAY, FEBRUARY 15, 2022

ENERGY AND NATURAL RESOURCES, Room 103, SH

- 9:00 a.m. **SB 380-FN**, relative to solid waste rules and landfill containment tests.

FINANCE, Room 103, SH

- 1:00 p.m. **HB 398**, making an appropriation to the department of environmental services for funding eligible wastewater projects.
1:10 p.m. **HB 412**, making an appropriation to the department of environmental services for the purpose of funding public water system projects.

TUESDAY, FEBRUARY 22, 2022

TRANSPORTATION, Room 101, LOB

- 1:40 p.m. **HB 571**, repealing the prohibition against OHRV travel on Hoit Road Marsh.

2022 NHMA UPCOMING MEMBER EVENTS

Feb. 17	Webinar: The Fundamentals of Property Tax Relief: 12:00 – 2:00
Feb. 23	Webinar: Preparing to Defend Against Today's Cyber Threats- 12:00 – 1:00
Please visit www.nhmunipal.org for the most up-to-date information regarding our upcoming events.	