

# LEGISLATIVE BULLETIN

## \$120 Million at Stake!

Although 2022 is not a budget year, it is very likely that New Hampshire’s cities and towns will see an infusion of state dollars to help support their local operations as a result of three separate bills. In total, [SB 401](#), [HB 1221](#), and [HB 1547](#) would make approximately \$120 million available to cities and towns. All that is left is one final vote, which will occur on Thursday. **Please contact your legislators, particularly House members, to ask them to support the committee of conference recommendations on [SB 401](#), [HB 1221](#), and [HB 1547](#).**

We know that many of you have provided invaluable assistance in getting these bills this far, and we are incredibly grateful for the work you have done, but there is one more hurdle before these bills can be delivered to the governor’s desk – Thursday’s vote. While your advocacy in response to this week’s [legislative alert](#) ensured that all three of these bills received favorable committee of conference recommendations, we aren’t quite past the final hurdle. Your advocacy has already made a difference, so please don’t stop now! We have provided a brief summary of each bill, along with a more detailed explanation below, in order to help facilitate your conversation with your legislators.

**SB 401** allocates \$36 million for municipally-owned bridges, \$30 million for municipal roads, and \$1 million for the body worn and dashboard camera fund using state general fund surplus.

As recommended by the committee of conference, the bill would give every municipality with a municipally-owned bridge a share of the \$36 million for the repair, maintenance, and construction; this funding would be in addition to any state or federal funds committed or available for bridge projects. **SB 401** will use a similar distribution formula to the highway block grant formula and apply for both the \$36 million in bridge funding and the \$30 million allocated for roads. To estimate your municipality's share of the \$30 million dollars allocated for roads, double your city’s or town’s state highway block grant “[Apportionment A](#)” distribution.

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**SB 401** would also appropriate \$1 million dollars for the purchase of body-worn or dashboard cameras, software maintenance for the cameras, and maintenance and storage of data related to the cameras. Municipalities can be reimbursed up to \$50,000 toward these expenses.

**HB 1221** allocates \$27.7 million for the employer share of the New Hampshire Retirement System (NHRS) contribution for Group I teachers and Group II police and fire employees.

This bill would provide a *one-time* payment by the state of 7.5 percent of the employer contribution costs for teachers, police, and firefighters in fiscal year 2023. To calculate the estimated savings for your municipality, reduce by 7.5% your NHRS employer contribution for teachers, police, and fire only.

**HB 1547** would allocate an additional \$25 million to the existing perfluorinated chemical (PFAS) remediation loan fund.

PFAS legislation and the funding needed to maintain safe public drinking water and soil continues to be a focus at the state house. We understand that the New Hampshire Department of Environmental Services has been working with state legislators to formulate a more comprehensive approach to PFAS, and we will be explaining that plan in future *Bulletins*. The current PFAS remediation program would allow municipalities with public water systems and wastewater treatment facilities that meet specific criteria to apply for grants of up to \$1.5 million or 30 percent of the total eligible cost of a project. This new infusion of state dollars would increase the total loan fund from \$50 million to \$75 million and provide additional relief to cities and towns as they work to address PFAS chemicals in their water systems.

In total, these three bills will allocate about \$120 million for municipalities. **Both the House and Senate will vote on these bills on Thursday.** It is critical that local officials contact their legislators, particularly their House members, and emphasize the need to vote for the committee of conference recommendations on **SB 401, HB 1221, and HB 1547.**

## House Sticks to Its Guns, Shoots Down Gun Bill

**HB 307**, the very troubling bill that would have punished local officials for innocently adopting an ordinance that restricts the possession of guns on town property, is dead. On Wednesday, the committee of conference hit an impasse, centered around the Senate's amendment that had removed the word "use" from the House bill. This amendment meant that the legislation, if passed, would *not* have prevented (and punished) local officials for adopting ordinances regulating or prohibiting the discharge of firearms on public property, such as near protected water sources or on walking trails—an amendment that greatly improved the bill, although NHMA remained opposed. House members on the committee of conference would not agree to move the bill forward unless the term "use," or something similar, was put back into the bill. There was, however, conversation among committee members about potential similar legislation next year. ***Thank you to all the local officials who have spoken to their legislators or testified against this bill over the last two years.***

## Housing Bill Survives

As we mentioned in [Bulletin #20](#), the Senate added most of the underlying language of **SB 400** to **HB 1661** as amendment [2022-1960s](#). In the time since we reported on that bill, the House non-concurred with **HB 1661** and that bill headed to committee of conference. After several hard days of negotiation, the House and Senate agreed to keep most of the Senate amendment relative to **SB 400**, but recommended an amendment, [2022-2088-CofC](#), which requires a legislative body vote for some of the processes relative to municipal involvement in housing incentives in TIF districts.

## Election Official Misconduct Bill Punishes Taxpayers

On Wednesday, the committee of conference on **HB 1567** recommended [an amendment](#) that essentially combines the House and Senate versions of the bill. The resulting amendment proposes changes to [RSA 666:3](#), the election official misconduct statute, that not only punishes election officials who engage in misconduct, but also fines the municipality whose election they helped run. In other words, the municipality is punished for the bad acts of the individual despite, in many cases, the bad act being done by someone whom no one else in the municipality can supervise in the performance of his or her duties.

Elections are run by elected officials – moderators, clerks, etc. – and like all elected officials there is no legal authority for the entity to which they were elected to oversee the performance of their duties. The theory, of course, is that elected officials who do not perform their duties in a satisfactory manner will not be reelected. (Those who commit crimes while on duty are, of course, a different matter.)

Unfortunately, the amendment recommended by the committee of conference adopts a theory of *respondeat superior*. In modern times, this theory is used in the context of an employee or agent doing something bad that ought to have been prevented by the employer. This may either be a direct prevention, such as saying “don’t do that,” or by providing specific training that would have anticipated and prevented the bad act. The key to this legal concept is that the entity being held responsible has *supervisory* authority over the individual committing the alleged bad acts.

Of course, the theory of *respondeat superior* does not work in the context of an elected official. The municipality does not have supervisory authority over the elected official. It has no recourse to correct or take remedial action for poor performance. A select board cannot, for instance, vote to remove a poorly performing town moderator. Instead, the town must rely on the voters at the next election to take action, if the poor performance does not rise to near the level of criminality. Levying a fine on the municipality does nothing except cost the taxpayers money. And with no remedial action available to voters until the next election—when they can elect someone else—the voters are ultimately the ones being punished.

Holding the elected official responsible for their own bad acts makes sense. We even suggested a solution in [Bulletin #12](#): “If an election official has truly failed to perform his or her duties in a material way, it seems the appropriate remedy is to remove the official from office, since the failure to perform duties imposed by law is a violation of the oath of office.”

We urge the House and Senate to vote against the committee of conference recommendation, and we are happy to work with legislators next session on language that would appropriately address the response to misdeeds of election officials.

## 2022 NHMA UPCOMING MEMBER EVENTS

|         |  |
|---------|--|
| June 1  | <b>Webinar:</b> 2022 Legislative Wrap Up – 12:00 – 1:00                |
| June 2  | 2022 Code Enforcement Workshop (Hybrid) – 9:00 – 12:00                 |
| June 9  | 2022 Municipal Trustees Workshop ( <b>Virtual Only</b> ) – 9:00 – 3:00 |
| June 16 | 2022 Art of Welfare Workshop (Hybrid) – 9:00 – 2:00                    |
| June 29 | <b>Webinar:</b> The Workings of a Planning Board – 11:30 – 1:00        |

Please visit [www.nhmunicipal.org](http://www.nhmunicipal.org) for the most up-to-date information regarding our upcoming events. Click on the Events and Training tab to view the calendar.

For more information, please call NHMA’s Workshop registration line: (603) 230-3350.