

LEGISLATIVE BULLETIN

Committee Processes for Testifying

We encourage our members to visit the State House and offer their opinions on bills as often as possible, but we recognize that one of the more frequent questions that new (and returning) visitors have involves the process of testifying.

First, the House has continued to provide the [opportunity for online testimony submission](#). Unlike in past years, however, we have not yet heard mention of any online submissions. We do know (because we asked) that the House Municipal & County Government Committee prefers hard copies of written testimony if you are testifying in person. (You will need 20 for the committee members and at least one extra for yourself.) Other committees may have different preferences.

Additionally, if you do come testify, please note that while all House committees use “pink cards” to sign-up to testify, different committees may have different rules for how those reach the chair. In the House Municipal & County Government Committee, pink cards should be filled out and attached to the clipboard associated with the bill on which you have come to testify prior to the hearing beginning. Other committees have a hand-in process that may involve a representative on the end of the aisle or may involve walking up the chair, vice chair, or clerk. Lobbyists (who can be easily identified via their orange name tags) and committee members are happy to help clarify the process if you are new and arrive during a break in hearings. Those who want to register their support or opposition to a bill but who do not want to speak may sign the blue paper on the clipboard labeled for the appropriate bill.

The Senate, in contrast, does not provide a portal for online testimony submission. Signing up to testify or register your support or opposition to a bill occurs in a similar manner to the House. Instead of a blue sheet, in the Senate, there is a white sheet of paper on a clipboard for each bill that

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is available at the back of the hearing room shortly before the hearing begins. All you need to do is print your name, your affiliation, check the box for support or oppose, and decide whether to check the box to speak. There are no pink cards.

If you have any questions, feel free to reach out to NHMA’s Government Affairs team, and please be sure to let us know if you plan on attending a hearing of municipal significance. We’d love to chat.

Another Attempt to Micromanage & Silence Local Officials

HB 51 is a new twist on an old effort: to make it harder for local officials to make local decisions and engage with the legislature. We anticipate this bill will have its hearing before the **House Municipal and County Government Committee** very soon, and local officials must urge committee members to recommend the bill as *Inexpedient to Legislate*.

HB 51 would add a new paragraph (paragraph III) to RSA 15:5:

Towns and school districts which fund lobbyists defined under RSA 15:1, I, shall use a warrant article for each agency. Such article shall read as follows: “Shall the town or school district fund _____ (name of lobbyist or lobbyist agency) using local funds to lobby for legislation.”

The clear *intent* is to create a statewide mandate requiring a separate warrant article for membership or contracts with entities that lobby, by overriding the local authority of locally elected select boards—and voters—to decide which questions must be warned separately at town meeting.

As an initial matter, **HB 51** is confusing in its application. As stated above, the new paragraph would apply to towns that “fund lobbyists under RSA 15:1,” using RSA 15:5 as the vehicle for the mandate. RSA 15:5 is a statutory section that applies to the state and to entities that receive funds from the state. Although there have been numerous efforts over the years to twist the meaning of RSA 15:5, I to apply to municipalities—all of which have failed—the legislative history of the statute reveals that its purpose is to prohibit organizations from receiving state funds, and then turning around to lobby the state with those funds. This is not the same as municipal officials advocating to their state legislature with local funds. And while it is true that local governments receive certain funds from the state, the decision to hire an attorney, to buy sand and salt, or to pay dues to a membership organization are all paid for by local revenues and property taxes. In fact, the bill *recognizes this to be the case*, when it refers to using **local funds** to engage in lobbying, creating an internal inconsistency in the legislation, underscoring that the use of lobbyists by towns does not fall under RSA 15:5.

This leads us back to the heart of the issue: local funds and local decisions. The purpose of **HB 51**, despite its internally inconsistent language, is to create a statewide mandate on local government operations and on local voters. NHMA—through our member-adopted [policies and principles](#)—opposes all legislation that detracts from existing local authority and supports maintaining local government authority without infringement by the state and measures that enable municipalities to exercise existing authority more efficiently and with greater discretion. Putting aside the technical issues with the bill, the bill’s purpose is to override existing local authority by allowing unnecessary infringement by the state on local authority.

Select boards are the officials elected by the voters, in local elections, to handle local operations. By state law, they are charged with the responsibility for noticing a town meeting, including the content of the warrant. And both select boards and voters already have the ability to include any appropriation or question in a separate warrant article: A mere 25 registered voters (or two percent, whichever is less) are needed to put a petitioned article on a town meeting warrant under RSA 39:3. (In fact, there have been past instances where voters have submitted petitioned warrant articles regarding payment of NHMA's dues, as is their right.) And with respect to transparency, municipalities are already required to present their budgets, in full line-item detail, to voters before the proposed budget is finalized—a budget the voters will have the opportunity to discuss, debate, amend, and adopt at town meeting. The state legislature should not supplant its judgment for that of the locally elected officials or the voters with respect to the town warrant or local spending decisions.

Furthermore, very few questions are *mandated* by state law to be included in separate warrant articles. Again, this is, for the most part, the local decision of select boards or voters, not legislators. Municipalities, like other governmental entities, fund many different programs, contracts with vendors, and products and services through their budget. There is no requirement that municipalities use separate warrant articles for attorneys to defend or advise them; consultants to assist on land use applications; or insurance in the event of a lawsuit. Why should membership to professional and advocacy organizations be different? Most towns have identified that membership in an organization like NHMA is more cost effective than requiring local officials to monitor and testify on several hundred of bills each year—although that is not, ultimately, the point. The point is that these are the types of decisions select boards are charged with making on behalf of the town, and that voters already have the ability to accept or reject those decisions at town meeting.

With regard to professional organizations, although proponents of similar legislation over the years have focused their efforts on NHMA, there are many other organizations run by local officials, for local officials that provide a variety of functions, including advocacy, which would be affected by **HB 51**. Membership with groups like the NH City and Town Clerks Association, the NH Building Officials Association, and the NH Association of Assessing Officials would be allowed only if approved on a separate warrant article. This mandate would remove the ability of local officials to decide whether to join professional support organizations. Should local officials not seek out resources and training? Each of these organizations provides hundreds, if not thousands, of hours of specialized training and education to their members each year—education and training that those officials need for their positions and which they cannot obtain elsewhere. If a town hires a new employee in June who wants to join one of these organizations, does the town need to call a special town meeting to authorize membership, simply because the organization also engages in advocacy? Curiously, this bill would apply its mandates to towns and school districts only—not to other governmental entities, including the State of New Hampshire, for use of public funds in its lobbying activities or membership organizations.

Finally, this legislation will open the door for legislators to continue to target municipal operations or spending that they do not agree with through statewide, one-size-fits-all legislation like **HB 51** without the benefit of hearing from the people who actually perform the functions that the state is regulating. Local decisions on spending and policy should remain the purview of locals; we do not understand why the state should micromanage municipal operations or the will of the voters.

We urge our members to contact the [Municipal & County Government Committee](#) to ask them to recommend **HB 51** as *Inexpedient to Legislate*.

“Primarily Religious” Land Use Law May Be Clarified

On **Wednesday, January 18, 2023 at 3:00 p.m.** in **LOB 206-208**, the **House Judiciary Committee** will hold a hearing on [HB 63](#), the bipartisan effort to clarify the law enacted last year relative to religious use of land and structures.

As land use officials know, NHMA partnered with the New Hampshire Department of Business Affairs (BEA) to provide training this summer on changes to planning and zoning laws in 2022. That collaboration produced a [guidance document](#) on a number of changes, including the enactment of **HB 1021**. The guidance document laid out the complexities of implementation of the changes enacted and provided an example affidavit which local land use boards could consider using to start the review process for an application that the applicant believed qualified as a “primarily religious purpose.” Ultimately, the advice given boiled down to “consult legal counsel” when such an application is received as no existing law mirrored the complex language of that statute.

[HB 63](#) would seek to clarify the complexities now contained in RSA 674:76 by replacing the entire statute. The new statute would be comprised of two sections. The first section incorporates the U.S. Supreme Court decision in [Church of Lukumi Babalu Aye, Inc. v. Hialeah, 508 U.S. 520, 533 \(1993\)](#) into New Hampshire’s statutes. That decision states that “a law targeting religious beliefs as such is never permissible,” and would apply to any existing zoning ordinance or local land use regulation.

The second section incorporates the [Religious Land Use and Institutionalized Persons Act of 2000](#) (RLUIPA), 42 U.S.C. §§ 2000cc, et seq., into New Hampshire’s statutes. That federal law protects individuals, houses of worship, and other religious institutions from discrimination in zoning laws, and applies to existing zoning ordinances and local land use regulations. Additionally, the second section clarifies that the building of housing to house the unhoused by a religious organization shall qualify as religious exercise under the proposed language.

As discussed in the trainings that that NHMA conducted in partnership with BEA, the existing law is unclear, and we have seen substantial interest from our membership in clarifying what is and what is not allowed. The rewrite would serve the interests of protecting religious practice while also clarifying the law in a manner that removes ambiguity from its drafting.

We are hopeful that the [House Judiciary Committee](#) will pass **HB 63** as written, and we are asking our members to contact the members of that committee to express their support for the legislation. Please note that members who cannot appear in Concord to testify may submit their testimony [online](#).

Retirement Bill Update

This week, the **House Executive Departments and Administration Committee** began to hold hearings on the seventeen bills that deal with the New Hampshire Retirement System (NHRS) this session. We have analyzed the bills that have language published to date to understand the impact on both municipal employers and employees. The wide variety of bills present both positive and negative proposed policy changes.

[HB 555](#) would require that the state transfer 75 percent of the biennial surplus to NHRS to reduce the retirement system’s unfunded actuarial accrued liability (UAAL) determined under RSA 100-A:16, II to the

extent the surplus meets or exceeds certain financial conditions. For fiscal year 2022, NHRS reported an unfunded liability of \$5.69 billion in the actuarial valuation. Current actuarial valuations estimate that the unfunded liability accounts for more than 75 percent of current employer rates which is borne solely by the participating employers. NHMA supports legislation that promotes a solvent, fiscally healthy, and financially sustainable defined benefit plan that both employees and employers can rely on to provide retirement benefits for the foreseeable future.

Two bills of note, [HB 50](#) and [LSR 2023-0801](#) are **NHMA policy bills** that would restore a portion of the state's NHRS employer contribution at 7.5 percent of the retirement costs for teachers, police, and firefighters. Over the last decade, the state has downshifted 100 percent of the employer contribution cost to the municipalities. Prior to 2012, the state contributed up to 35 percent toward these costs. The 2021 legislative session provided municipal employers with a one-time 7.5 percent (26.5 million) payment allocated from state surplus. Beginning in fiscal year 2024, these bills would provide a yearly 7.5 percent contribution, estimated to be \$26.4 million, providing significant and much-needed local tax.

Across the country, state and local governments are challenged with balancing the need to provide reasonable retirement benefits for their employees with the need to provide those benefits at reasonable costs to their taxpayers, a daunting task—particularly with the current economic conditions. The prospect for the immediate future is that employer rates will continue to increase if proposed legislation is passed that increases the unfunded pension liability.

Some concerning bills would increase employer contribution rates, increase the unfunded liability, or create a change in benefits to current members or retirees that will impact municipal budgets—and increase local property taxes. There are seven bills that propose policy changes for Group II police and fire employees, specifically.

New Bills

Please [click here](#) to find a list of newly published bills that NHMA is tracking. We will be publishing a table every week as new bills are published this year. Please note that publication of bills is occurring about two weeks later this session than in prior sessions. Also, the Senate deadline for final sign offs has been extended from January 12 to January 17.

Hearing Schedule

Please [click here](#) to find a list of hearings next week on bills that NHMA is tracking. Please note that the linked PDF only covers hearings scheduled for the next week. For the most up-to-date information on when bills are scheduled for a hearing, please use our [live bill tracker](#).

Live Bill Tracker



Scan to stay informed on legislation affecting cities and towns!

As we wrote in our two prior editions of the *Bulletin*, NHMA has launched a new feature on our website: a [live bill tracker](#). This tracker, run by the software platform FastDemocracy, will enable visitors to our website

to see what bills NHMA is following. It also allows visitors to subscribe to daily or weekly (published Fridays) updates on either all the bills that we’re tracking or specific bill topics. We have organized the bills into topics based on our member-adopted [Legislative Policies and Principles](#). Visitors can also choose to subscribe to individual bills. Subscribers will get updates as things happen – *e.g.* bills are scheduled for committee hearings, votes, *etc.* – and updates only on the bills which move forward. Visitors will also notice that we will be adding publicly facing notes explaining what the bill does; indicating NHMA’s applicable legislative policy; and stating our position. Some of the information we’ve traditionally published in the *Bulletin* will now be available through our live bill tracker. The benefit of the bill tracker is that members can always have real-time information on bill activity: With a 4-minute delay and automatic updates, the bill tracker will ensure that you know if and when something changes with the bills that interest you.

2023 NHMA UPCOMING MEMBER EVENTS	
Jan. 18	2023 Regional Legislative Preview in Dover – 7:00 – 8:30
Feb. 2	2023 Regional Legislative Preview in Sugar Hill – 6:00 – 7:30
Feb. 4	2023 Town & School Moderators (Traditional Town Meeting) Workshop (hybrid) – 9:00 – 1:30
Feb. 8	Webinar: 10 Steps to Successful Succession Planning – 12:00 – 1:00
Feb. 9	Right-to-Know Law Workshop for Law Enforcement – 9:00 – 12:00
Please visit www.nhmunicipal.org for the most up-to-date information regarding our upcoming events. Click on the Events& Training tab to view the calendar.	
For more information, please call NHMA’s Workshop registration line: (603) 230-3350.	