

# LEGISLATIVE BULLETIN

## State Retirement Contribution Means Property Tax Relief

NHMA Legislative Bulletin 16  
April 8, 2022

On Wednesday, April 13, at 9:45 a.m., the Senate Executive Departments and Administration Committee will hold a public hearing on [HB 1417](#) in State House Room 103. [HB 1417](#) would reinstate a 7.5 percent state contribution toward the employer’s cost of the New Hampshire Retirement System (NHRS) contribution for teachers, police, and firefighters beginning on July 1, 2023. This bill would provide direct property tax relief as the fiscal note states municipalities will see a reduction in expenditures amounting to \$27.7 million in fiscal year 2023, and \$28.47 million in fiscal year 2024.

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As many of you know, for many years the State of New Hampshire funded a portion of the retirement costs for teachers, police, and firefighters, a practice that dated back to 1940 under the predecessor retirement systems and continued when these systems were consolidated into the NHRS. In 1977, the state contribution was set at 35%, with municipalities, counties and school districts paying the remaining 65%. (Municipalities, counties, and schools paid 100% of the cost for all other employees enrolled in the NHRS.) The 35% state contribution was gradually lowered from 2010 through 2012 due to the grim economic climate during the recession. There was a promise to restore the contribution when economic stability returned, but, instead it was eliminated entirely. This resulted in local governments paying 100% of the retirement costs in 2013 and beyond. This elimination of the state contribution had an immediate impact on property taxes, increasing costs to local governments to pay what had previously been the state share. With the state experiencing a record surplus this fiscal year, it is time restore the NHRS employer contribution.

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In the House, [HB 1417](#) bill was recommended as Inexpedient to Legislate, but with your advocacy and bipartisan support, it passed—and it can be done again.

*Please contact your Senator and the [Senate Executive Departments and Administration Committee](#) and ask them to pass this important legislation. You can also register your support for the bill [online](#).*

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## Tax Cap Bill Is Bad for Voters

On **Monday, April 11, at 1:20 p.m.** in **State House Room 100**, the **Senate Election Law and Municipal Affairs Committee** will hold a hearing in on [HB 1194](#), which applies to towns, school districts, and village districts. This bill would require a 3/5 majority vote, by written ballot, of a town meeting to approve any appropriation that would cause the amount of local taxes raised to exceed the town's tax cap.

The purpose of a tax cap is to limit the budget authority of an *elected body*. This means that a tax cap limits the budget amount that the select board or budget committee can present to the town meeting.

However, once the budget is presented to the town meeting, it is now in the hands of the voters to make their own decision. That is why current law allows the town meeting to override a tax cap “by the usual procedures applicable to annual meetings,” and states that the tax cap “shall not limit the legislative body's authority to increase or decrease the amount of any appropriation or the total amount of all appropriations.”

**HB 1194** changes the authority of the town meeting and would have the same stringent requirements as a bond issue, which means the voters could not choose to adopt a budget that exceeds the tax cap unless they can muster 60 percent of the vote.

*Please contact your Senator and members of the [Senate Election Law and Municipal Affairs Committee](#) to oppose the bill.*

## Bill Would Undermine Default Budgets

On **Monday, April 11, at 1:00 p.m.**, the **Senate Election Law and Municipal Affairs Committee** will hear testimony on [HB 1070](#) in **State House Room 100**. In [Bulletin #11](#), NHMA detailed how this bill cannot work in practice.

**HB 1070** would change the calculation of the default budget in an official ballot referendum (SB 2) town by requiring that any reduction to an appropriation made by the governing body in the proposed budget be subtracted from the default budget. The point of a “default” budget is exactly that: if the voters do not approve the governing body/budget committee's proposed budget for the coming year, the town will “default” to last year's budget. The default budget is not a vehicle for policy changes for the coming year; it is last year's budget, adjusted only to eliminate non-recurring expenditures and to include items required by law or contract.

*If you are an SB 2 town, please consider testifying in person at the hearing.* You can also register your opposition to the bill by signing in online [here](#) or providing written testimony to the [Senate Election Law and Municipal Affairs Committee](#).

## Health Officer Powers & City Council Powers

On **Monday, April 11**, beginning at **1:30 p.m.** in **State House Room 100**, the **Senate Election Law and Municipal Affairs Committee** will hear testimony on two related bills: [HB 1268](#), limiting the general authority of city councils to make bylaws and ordinances to the abatement of nuisances that interfere with the use or enjoyment of property, and [HB 1272](#), limiting the authority of local health officers in making bylaws or ordinances relating to public health matters. NHMA opposes both bills.

**HB 1268** as amended by the House replaces the phrase “which may seem for the well-being of the city” in the city council powers statute, [RSA 47:17](#), with the phrase “for the abatement of nuisances that interfere with the use or enjoyment of property.”

NHMA has two concerns about this particular bill. The first is that there is already a provision relating to “nuisances” in RSA 47:17 in section XIV. This new language might limit that existing language, putting city ordinances already in place to deal with nuisances at risk of being nullified.

Second, the existing, broad language allows cities to timely deal with local issues at the local level. Without that language, whenever issues arise that are not already covered by RSA 47:17 arise, cities and citizens will need to appeal to the legislature to deal with these local issues. That change delays solutions and clogs the wheels of state government by requiring it to deal with issues that can and should be dealt with by local officials.

**HB 1272** as amended by the House replaces the phrase “and such other regulations relating to the public health as in their judgment the health and safety of the people require” in the health officer’s statute, [RSA 147:1](#), with a definitive list of powers – “such as garbage, insects, unsanitary conditions, septic, rodents, and safe drinking water inspections.”

NHMA’s major concern is that the list is not comprehensive. We are learning of new areas where local regulations have been proposed by the local health officer and adopted by the local governing body on a weekly basis. Issues such as efforts to combat mosquitoes by regulating standing water and regulating massage parlors have been brought to our attention *since* the House hearing. The current language allows these local issues to be dealt with at the local level, and changing to a specific list will impact the ability of municipalities to deal with local issues at the local level, particularly in the context of self-inspecting municipalities, i.e. municipalities with their own local health department that do much of the work that might otherwise be completed by the state.

*Please contact the [Senate Election Law and Municipal Affairs Committee](#) and ask them to recommend both **HB 1268** and **HB 1272** as *Inexpedient to Legislate*.*

## Funding for Cell Service & Broadband Initiatives

On **Monday, April 11** at **1:00 p.m.** in **LOB Room 306-308**, the **House Science, Technology and Energy Committee** will hold a public hearing on [SB 395](#), which would allow a municipality or cell phone service provider to apply for broadband matching grant funds to upgrade local cell phone service. This bill would amend RSA 12-O:61 and create an incentive for wireless providers to develop wireless infrastructure. Throughout our state are cellular deserts where service is lacking—and not just in rural areas. In a time when 85 percent of Americans own a cell phone and 70 percent of 911 emergency calls are made using a cell phone, wireless coverage is a priority. You can register your support or submit testimony [online](#) or come voice your support to the committee in person.

Then on **Wednesday, April 13** at **3:00 p.m.** in **LOB Room 212, House Finance, Division I** will hold a work session on [SB 445](#), which would appropriate \$122 million for broadband matching grants using American Rescue Plan Act funds dedicated through the Capital Projects Fund. This bill would allow any broadband provider, municipality, or communications district to apply for a grant of up to 75 percent of the total eligible cost of the project. Using federal funding, the state is actively working to address last mile broadband service and cellular coverage. This work includes the comprehensive mapping of broadband access statewide. Detailed mapping information will provide the state and municipalities the data needed to deploy broadband in unserved and underserved areas. You can register your support for SB 445 online [here](#).

## Senate Hearing on “Flushable” Wipes

On **Tuesday, April 12**, at **9:00 a.m.** in **State House Room 103**, the **Senate Energy and Natural Resources Committee** will hear testimony on **HB 1134**, establishing a committee to study proper labeling and disposal of disposable wipes. This was an issue that we mentioned in our [Legislative Preview](#) article in *Town & City Magazine*, and has concerned municipal wastewater operators for years. It’s a simple issue – for years wipes, many of which are labeled “flushable,” have been flushed down toilets, and clogged pipes and machinery at local wastewater treatment plants, costing taxpayers significant amounts of money to clear.

This summer, a coalition of interested parties, including us, worked on legislation to create a study committee to consider the issue. That legislation was amended by the House committee to change the composition of the committee, then passed the House on the Consent Calendar. Now, the bill is before the Senate, where we hope it will receive an Ought to Pass recommendation from the committee. ***Please contact the [Senate Energy and Natural Resources Committee](#) and ask them to pass this legislation.***

## Remote Meetings Bill Goes to the House

On **Wednesday, April 13**, at **11:30 a.m.** in **Representatives Hall**, the **House Judiciary Committee** will hear testimony on **SB 344**, the remote meeting bill which passed the Senate last week. This bill would add a new provision to the Right-to-Know Law to allow the legislative body of a political subdivision to vote to authorize members of public bodies in the political subdivision to participate in meetings via electronic means where less than a quorum is physically present. In other words, town meeting could authorize their local boards to meet via Zoom, Teams, or other audio/video platforms.

There are a number of safeguards to ensure that public access to these boards is not diminished by any such local adoption, and the local adoption mechanism allows each municipality to decide for itself whether it is appropriate to allow such remote meetings.

Importantly, if a municipality adopts this new authority, **SB 344** would require that the notice of the meeting, in addition to identifying the physical location of the meeting, provide the information necessary for electronic access, and provide a mechanism for the public to alert to the public body during the meeting if there are problems with electronic access and require adjournment until the problem is resolved.

***Please contact the [House Judiciary Committee](#) and ask them to pass this important enabling legislation.***

## Concerns with Provisional Ballot Bill

Today the **House Election Law Committee** heard testimony on **SB 418**, which would introduce the use of “affidavit ballots”—essentially provisional ballots—for state and local elections. The governor appears [opposed to the bill](#), and so is NHMA. Just to be clear, we do not oppose efforts to ensure that voters provide proper identification and documentation, but the process created by this bill will have serious implications for many aspects of our elections.

The bill would apply to voters who are required to submit one of the three kinds of affidavits because they lack the necessary documentation while registering to vote or, if already registered, proof of identity: Domicile (proof of where they live), Qualified Voter (proof of age, citizenship, identity), or Challenged Voter (lack of ID at the polls).

All of these voters would be handed an “affidavit ballot package” that contains (1) a prepaid U.S. Postal Service Priority Mail Express envelope addressed to the secretary of state and (2) an “affidavit verification letter” listing the documents required to qualify to vote and indicating which documents are missing. The voter would be required to return the letter and any necessary documentation to the secretary of state’s office within 10 days after the election. The cost of mailing would be paid for by the state and is estimated at \$26.95 per voter.

Meanwhile, the moderator would be required to forward separate copies of all affidavit verification letters to the secretary of state. If the voter fails to send the required documents within 10 days, the secretary of state would instruct the moderator to retrieve the associated ballot and deduct all of the votes on that ballot from the vote totals.

There are several serious issues with this bill:

***The compromised secret ballot.*** There are many municipalities that saw only a handful of ballots requiring domicile, qualified voter, or challenged voter affidavits in the 2020 election. Some only saw one or two. In those municipalities, the requirement to separate out and hand-count the affidavit ballots **will** result in local officials – and probably the public at large – knowing how individual voters voted, compromising the sanctity of the secret ballot.

***The process.*** The process created by the bill will require the voter to be handed a pre-labeled “affidavit ballot,” enter the voting booth, vote, exit, and remember to place the ballot in the side pocket (probably notifying the select board member standing next to the machine that they need to do so, since the select board member will likely let the voter know where ballots ordinarily go). Frankly, that’s unlikely to happen. In all likelihood, when the vote count occurs that evening, local officials will end up searching through the pile processed by the machine for the “missing” affidavit ballot.

***Delivery of the affidavit ballot package.*** The bill states that “the authorized election official shall hand the affidavit ballot voter an affidavit ballot package and explain its use.” But it does not say who “the authorized election official” is. This is not a small point. Each election official has very specific duties, and they are not interchangeable, so it needs to be clear who would provide the ballot package and explain its use. Another provision of the bill suggests that the supervisors of the checklist would give the voter the affidavit ballot package, but this is not clear. It needs to be clear what each election official’s role is in this process.

***Counting of disqualified ballots and deadlines.*** The bill requires the secretary of state to instruct the moderator, on the tenth day after the election, to retrieve the affidavit ballot associated with any voter who has failed to return the required documents and deduct the votes on that ballot from the vote totals. “The counting of votes on affidavit ballots identified by the secretary of state as unqualified shall be conducted . . . using the same methods of counting and observation utilized on the day of the election for hand counted ballots.”

This raises several questions that are not answered: How is the secretary of state to notify the moderator? Is it really possible for the secretary of state, within a single day, to notify every moderator in the state about the disqualified ballots in his or her town/ward? When is the counting of the votes to take place? How and when is the public to be notified?

Because almost all elections take place on a Tuesday, the secretary’s notice to the moderator must occur on Friday of the following week. The moderator then has until the following Tuesday to file “a summary report, by race or ballot issue, of the total votes cast by the unqualified voters.” Presumably the moderator would

need to post notice of the counting session in advance and have several election officials prepare to participate in it over the weekend or on Monday or Tuesday.

In the case of *primary* elections, this pushes out the date by which elections are finalized, risking running into [UOCAVA deadlines](#), and those candidates in close races may not get a final result until even closer to the general election, making contested general election races even more perilous for those with contested primaries.

NHMA opposes **SB 418** due to the ambiguities and logistical problems with the bill. We encourage local officials to speak with their representatives and explain why this bill won't work for local elections and election officials.

## Personal Privacy Protection Act Presents Potential Problems

Yesterday, the **House Judiciary Committee** held a hearing on [SB 302](#), which would establish "The Personal Privacy Protection Act." As we continue to learn more about this bill, we become increasingly concerned about its potential consequences for local governments.

The bill prohibits the disclosure of any "list, record, register, registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, *volunteer*, or donor of financial or nonfinancial support, to any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code." The term "volunteer" under RSA 508:17 is "an individual performing services for a nonprofit organization or government entity who does not receive compensation, other than reimbursement for expenses actually incurred for such services." Because directors and officers of a 501(c) entity serve without compensation under RSA 508:26, they are volunteers. It appears, therefore, that **SB 302** would prohibit the release of names of directors and officers of nonprofits organizations, meaning the attorney general, the secretary of state, and other state agencies would be required to redact the names of all officers and directors of nonprofit organizations. And because the bill applies to all "public agencies and public bodies," local government would also be prohibited from publicly releasing this information as well. The bill establishes both civil and criminal penalties for noncompliance.

This level of secrecy could be deeply problematic for the many cities and towns that work with or make appropriations to nonprofit organizations. Local governments are also governed the Right-to-Know Law, which requires transparency in governmental activities. As a result, we are deeply concerned how the prohibition on releasing certain information may compromise the ability of local governments to partner with nonprofits and maintain transparency.

If, however, the intent of the bill is to keep confidential the name of a "donor" or a "supporter" of an organization, an amendment could easily accomplish that and prevent more serious consequences from the bill. We encourage local officials to speak with their legislators about their concerns with **SB 302**.

## HOUSE CALENDAR

### MONDAY, APRIL 11, 2022

**SCIENCE, TECHNOLOGY AND ENERGY, Room 306-308, LOB**

1:00 p.m. **SB 395**, relative to the broadband matching grant initiative.



**TUESDAY, APRIL 12, 2022**

**ENVIRONMENT AND AGRICULTURE, Room 301-303, LOB**

- 10:30 a.m.      **SB 379-FN**, establishing the solid waste management fund and grant program.  
11:00 a.m.      **SB 380-FN**, relative to solid waste rules and landfill containment tests.

**EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 302-304, LOB**

- 10:00 a.m.      **SB 325**, relative to local organization for emergency management and first responders.  
11:15 a.m.      **SB 383-FN**, relative to land surveying services.

**SCIENCE, TECHNOLOGY AND ENERGY, Room 306-308, LOB**

- 10:00 a.m.      **SB 265**, relative to the aggregation of electric customers by counties.

**WEDNESDAY, APRIL 13, 2022**

**FINANCE, Room 210-211, LOB**

- 10:00 a.m.      **SB 445-FN**, relative to the broadband matching grant initiative.  
10:30 a.m.      **SB 402-FN**, relative to financial assistance for municipalities affected by disasters.

**JUDICIARY, Reps Hall, SH**

- 11:15 a.m.      **SB 344**, relative to the electronic participation requirements of meetings open to the public under the right to know law.

**SENATE CALENDAR**

**MONDAY, APRIL 11, 2022**

**ELECTION LAW AND MUNICIPAL AFFAIRS, Room 100, SH**

- 1:00 p.m.      **HB 1070**, relative to the default budget in official ballot jurisdictions.  
1:20 p.m.      **HB 1194**, relative to the procedure for overriding a local tax cap.  
1:30 p.m.      **HB 1268**, limiting the authority for city council bylaws and ordinances.  
1:45 p.m.      **HB 1272**, limiting the authority of town health officers.  
2:00 p.m.      **HB 1496-FN**, requiring political subdivisions to make voter checklists available in spreadsheet form to any resident.

**TUESDAY, APRIL 12, 2022**

**ENERGY AND NATURAL RESOURCES, Room 103, SH**

- 9:00 a.m.      **HB 1134**, establishing a commission to study proper labeling and disposal of disposable wipes.

**JUDICIARY, Room 100, SH**

- 1:15 p.m.      **HB 1540-FN**, relative to recording custodial interrogations.  
1:30 p.m.      **HB 1682-FN-A**, establishing the law enforcement conduct review committee in the New Hampshire police standards and training council and making an appropriation therefor.

**TRANSPORTATION, Room 101, LOB**

1:00 p.m. **HB 1302-FN**, relative to the weighing of vehicles.

**WEDNESDAY, APRIL 13, 2022**

**EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 103, SH**

- 9:15 a.m. **HB 1552-FN**, establishing a board for the certification of assessors.
- 9:30 a.m. **HB 1535-FN**, relative to a one-time allowance for certain state retirees.
- 9:45 a.m. **HB 1417-FN-L**, relative to payment by the state of a portion of retirement system contributions of political subdivision employers.
- 10:05 a.m. **HB 1587-FN-A**, relative to determination of average final compensation under the retirement system and making an appropriation therefor.

**THURSDAY, APRIL 14, 2022**

**ENERGY AND NATURAL RESOURCES, Room 103, SH**

**Note:** The Committee will meet at 10:30 a.m., or 15 minutes following the end of Session.

- 10:30 a.m. **HB 1547-FN**, setting maximum contaminant levels for perfluorochemicals in the soil.
- 11:00 a.m. **HB 478**, relative to treatment of PFAS contaminants in the drinking water of the Merrimack Village Water District.
- 11:15 a.m. **HB 1185**, relative to treatment of water contaminated with perfluorinated chemicals.

**JUDICIARY, Room 100, SH**

- 1:00 p.m. **HB 1036**, relative to nonpublic meetings concerning public employees.
- 1:15 p.m. **HB 1073**, modifying attorney exemptions under RSA 91-A.
- 2:00 p.m. **HB 1579**, relative to landowner liability on land authorized for outdoor recreational activities.

**MONDAY, APRIL 18, 2022**

**ELECTION LAW AND MUNICIPAL AFFAIRS, Room 100, SH**

- 1:00 p.m. **HB 1163**, relative to over voted ballots.
- 1:10 p.m. **HB 1174**, relative to election challengers.
- 1:20 p.m. **HB 1667**, relative to the standard and optional veterans’ tax credits and the all veterans’ tax credit.
- 1:30 p.m. **HB 1406**, authorizing municipalities to collect compost.
- 1:45 p.m. **HB 1307**, modifying the authority and duties of the housing appeals board.

**2022 NHMA UPCOMING MEMBER EVENTS**

Apr. 13	<b>Webinar:</b> ZBA Basics– 11:30 – 1:00
Apr. 28	2022 Right-to-Know Law Workshop (Hybrid) – 9:00 – 1:00
May 5	2022 A Hard Road to Travel Workshop (Hybrid) – 9:00 – 12:30
May 17	2022 Local Officials Workshop (Virtual) – 9:00 – 4:00
May 18	<b>Webinar:</b> Investigations 101 – 12:00 – 1:00
Please visit <a href="http://www.nhmunicipal.org">www.nhmunicipal.org</a> 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.	