**New Hampshire Municipal Association**

THE SERVICE AND ACTION ARM OF NEW HAMPSHIRE MUNICIPALITIES

# LEGISLATIVE BULLETIN

Bulletin #1, 2016 Session
December 17, 2015

## Welcome to the 2016 Legislative Bulletin!

No doubt readers have missed the *Bulletin* as much as we have missed writing it. With the legislature set to convene the first full week in January, it is time to get ready for what promises to be an eventful year.

This first issue contains information on bills that have been released, an update on some unfinished business from last year, and the first installment of our new feature, *The Edge*. The second issue of the *Legislative Bulletin* will be published shortly before New Year's Day, and publication will then continue weekly through the end of the legislative session. We will post the *Bulletin* on the NHMA website every Friday afternoon and send it electronically to as many members as we can. ***We would love to reduce our photocopying and postage costs (ultimately paid by our members!), so if you are still receiving the Bulletin by U.S. mail and would prefer to get it electronically instead, please let us know.***

As required by the New Hampshire Constitution, the House and Senate will both convene on the Wednesday following the first Tuesday in January, which in 2016 is January 6. Over 500 bills have already been released, with more to come, and hearings are likely to begin the week of January 11.

As of this writing, although many bills have been drafted and signed off on, there is not yet a list of bills on the legislature's website, nor can you find a bill using the usual search function. Instead, you can get to a bill only through the legislative service request (LSR) that generated the bill. It is possible that this will have changed by the time you read this, but if not, you will need to go to the LSR search page and either search by LSR number (if you know it), search by a word within the title, or click on the indicated link to see a list of all LSRs. Once you find the LSR title, there will be a link showing the corresponding bill number. Click on that link to see the text of the bill. A list of all new bills, with links to their text, should appear in the very near future.

The legislative website is a tremendous resource, providing easy and quick

INSIDE THIS ISSUE

Unfinished Business.....2
The Edge.....2
New Bills.....5
NHMA Webinar.....10
NHMA Workshops.....10

GOVERNMENT AFFAIRS CONTACT INFORMATION

**Judy A. Silva**, Executive Director

**Cordell A. Johnston,** Government Affairs Counsel

**Barbara T. Reid,** Government Finance Advisor

**Timothy W. Fortier,** Communications & Member Services Coordinator

NHMA
NEW HAMPSHIRE MUNICIPAL ASSOCIATION
EST. 1941

25 Triangle Park Drive
Concord NH 03301
Tel: 603.224.7447
Fax: 603.415.3090
governmentaffairs@nhmunicipal.org
Website: www.nhmunicipal.org

*(Continued from Page 1)*

access to information about committees, bills, session days, and hearings. Check the site and explore all the information available to you.

As always, if you have any questions, please do not hesitate to contact the Government Affairs staff at governmentaffairs@nhmunicipal.org or 1-800-852-3358, ext. 3408. We wish you the best for a happy holiday season.

## Unfinished Business

An unusually large number of 2015 bills were either retained or sent to study committees. This resulted in an unusual amount of legislative activity over the summer and fall, which in turn means the House and Senate will be acting on a large number of leftover issues beginning in January. Here are a few of the items of particular significance to cities and towns:

***Municipal liability.*** Last year's **SB 41** created a committee to study "government immunity from suit and accountability by its citizens." This was precipitated by concern, primarily among trial lawyers, about recent court decisions that have reinforced municipalities' limited immunity from lawsuits for personal injuries. After much discussion and debate, the study committee recommended filing a bill that would significantly expand municipalities' exposure to lawsuits. *This should be of grave concern to all local officials and taxpayers.*

As of this writing, the bill has not been released, but the LSR number is 2016-2825, and the title is "relative to governmental liability for negligence claims." We will be writing much more about this in future editions, so please watch for updates and be prepared to talk to your legislators about this legislation. This may be one of the most important issues of 2016.

***Accessory dwelling units.*** After the Senate passed **SB 146,** requiring municipalities to allow accessory dwelling units (ADUs) in all residential zones, the House Municipal & County Government Committee retained the bill. After lengthy negotiation and debate, the committee has recommended the bill with a significant amendment that provides more flexibility for municipalities to deal with ADUs. The amended language can be found here.

The bill will go to the full House in January, with a recommendation of Ought to Pass with Amendment. Assuming it passes the House, the bill will then go back to the Senate, which will decide whether to concur with the amendment or to request a committee of conference. We do expect that the bill will eventually pass both

## THE EDGE

**Editor's note:** *The Edge* is a new weekly feature of the *Legislative Bulletin*. Written by Government Affairs Counsel Cordell Johnston, it will provide interesting (he hopes), if not always useful, information on a topic related to the legislative process, municipal government, New Hampshire politics, or whatever else percolates to the surface.

***Deciphering legislative license plates***

You're driving on I-93 and a car with legislative plates blows by you at 90 mph. You note the plate number, 4-13, so you can "out" this scofflaw in a huffy letter to the editor (unless, of course, you learn that he's a member of your own party).

But how do you trace the license number to a legislator? What does that number mean?

For senators, the license numbers is a one- or two-digit number, 1 through 24, indicating the senator's district. For House members, however, the license number is the representative's seat number in the House chamber.

There are five seating sections in Representatives' Hall, and the seats in each section are numbered sequentially. (There are no row numbers.) Thus, the representative with plate number

*(Continued from Page 2)*

chambers in substantially the form recommended by the House committee.

One important change is that the bill's effective date is June 1, 2017. This will give all towns a full town meeting season to amend their zoning ordinances if necessary. We will provide more information on the subject as the legislation progresses, but we recommend that planning boards start looking at their zoning ordinances now and thinking about what changes may need to be recommended in 2017.

***Valuation of telephone poles.*** Officially, **HB 547,** dealing with valuation of telephone poles for property tax purposes, died in a committee of conference, but the issue was subsequently taken up by the Assessing Standards Board at the request of the Senate. An ASB subcommittee spent many hours on the issue, and the ASB is recommending that an approach to valuation be put into statute. The ASB sent a letter to the legislature this week requesting additional time to come up with statutory language, and a new subcommittee is going to work on the issue over the next month.

A new bill, **HB 1198,** has been filed as a "placeholder" for the language that ultimately will come from the ASB. **HB 1198** as introduced is identical to the version of **HB 547** passed by the House in 2015. That language is unacceptable, but it is understood that it will be replaced with the ASB's recommended language once it becomes available. We will provide updates on the ASB's deliberations in the coming weeks.

***Meals and rooms tax distribution***. Last session's **SB 213** created a study committee to review the current formula for distributing meals and room tax revenue to municipalities and to consider alternative methods for municipalities to address the high cost of providing tourism-related services. The committee learned that under the current collection process, the Department of Revenue Administration (DRA) is unable to trace meals and rooms tax revenue by municipality, because many of the businesses that remit the tax have multiple locations. This makes it impossible (without changing the reporting system) to base the distribution formula on where the money comes from. (The current distribution formula is based on population estimates.) The committee also learned that most states provide some form of a local-option tax or fee, often collected at the state level and then remitted to the municipality.

In its final report, the committee recommended 1) that enabling legislation could authorize the adoption of a local-option tax to be collected by DRA and remitted to the municipality where it was generated, and 2) that legislation could provide for the distribution of any excess meals and rooms tax revenue (beyond the additional

THE EDGE *(Continued)*

4-13 sits in section 4, seat 13.

But how do you find a representative by seat number? On the House of Representatives' web page, click on Find a Legislator, then Roster Downloads, and download the "Text Delimited" document. Each representative's seat number is shown as a four-digit number immediately after his or her legislative district. Seat number 4-13, for example, would show up as 4013. Just search for that number.

Two items of "seat trivia," for which we must thank House Judiciary Chairman Bob Rowe, who shared the information one day during a slow House session: First, in a nod to superstition, there is no seat 13 in any section. (So the number we've been using here is fictional—of course.) Second, there is officially a sixth section in Representatives' Hall, which consists solely of the Speaker's chair. Officially, then, the Speaker's seat number is 6-1.

Now, how do seats get assigned? Let's not get into that!

♦♦♦♦♦♦♦

*(Continued from Page 3)*

$5 million that is supposed to be added each year to the municipal distribution) based on where it was generated, rather than on population. Several bills have been filed on this issue, including **HB 1214,** which authorizes a local-option hotel surcharge, **HB 1173,** which requires DRA to collect information on where meals and rooms tax revenue is generated, and **LSR 2016-2703,** titled "relative to the disposition of meals and rooms tax revenues to towns and cities."

***Road usage fee.*** The "Commission to Study Revenue Alternatives to the Road Toll for Electric-Powered and Hybrid Vehicles for the Funding of Improvements to the State's Highways and Bridges" identified the overall increase in fuel efficiency of vehicles, not just electric-powered and hybrid vehicles, as the root cause of declining highway fund revenues. After numerous meetings and extensive information provided by the Department of Transportation, the commission recommended enactment of a road usage fee as a "fair and effective solution to the state's transportation funding needs." This fee would be collected locally through the existing annual motor vehicle registration process. The commission further recommended that municipalities receive 12% of the revenue generated as currently required under the highway block grant apportionment formula, and that municipalities be held harmless financially for start-up and operating costs to implement this fee. **HB 1602** has been filed to enact the commission's recommendations.

***Right-to-Know Law.*** The Senate Judiciary Committee re-referred **HB 285,** which would allow public bodies to enter non-public session to consider correspondence received from legal counsel. The Attorney General's office has recommended some revised language, which we believe is acceptable, and the Judiciary Committee will take up the bill in the near future. We are optimistic that it will recommend the bill with the AG's revision. If so, the bill will go to the full Senate for a vote early in 2016, and if it passes the Senate, it will go back to the House to concur or request a committee of conference.

***Flaggers and police details.*** Last year's **SB 234** created a committee to study the issue of using police officers or non-police flaggers for traffic control when utility companies are performing work in municipal rights-of-way. A working group of interested parties came up with proposed legislation over the summer, which the committee has recommended. A Senate bill incorporating that language has been filed, but the bill has not been released yet, so we do not know the bill number. The LSR number for the bill is 2016-2808, and the title of the bill will be "relative to traffic control measures."

Essentially, the bill states that municipalities may require private companies to pay for police details if the requirement is based on legitimate safety concerns, and if police would be used for a municipal project under similar circumstances. We believe the legislation provides an appropriate level of local control, but municipal officials who have concerns are encouraged to contact us and speak to their legislators.

# 2016 NEW BILLS

House Bills

HB 1108 prohibits an employer from asking a job applicant about his or her criminal history. Rep. Heffron of Exeter; **LABOR.**

HB 1109 requires the condemnor in an eminent domain proceeding to offer at least 300 percent of the fair market value, and requires the condemnor to pay the property owner's attorney fees if the property is found to be undervalued by 20 percent. Rep. B. Tilton of Swanzey; **JUD-H.**

HB 1112 allows a planning board to adopt a subdivision regulation requiring cleanup of environmental contamination as a condition of approval. Rep. Coffey of New Ipswich; **M&CG.**

HB 1114 eliminates the authorization to appoint additional inspectors of election. Rep. Gray of Rochester; **EL.**

HB 1115 Provides that citizens of New Hampshire are bound only by laws passed by the state legislature and the U.S. Congress. Rep. Edelblut of Wilton; **JUD-H.**

HB 1116 Increases to 75 megawatts the cap on net energy metering tariffs available to eligible customer-generators. Rep. Edelblut of Wilton; **ST&E.**

HB 1119 increases the maximum fee that a municipality may collect to support a municipal transportation improvement fund. Rep. Higgins of Hanover; **M&CG. NHMA POLICY.**

HB 1123 allows a municipality to adopt a property tax exemption for an emergency stand-by generator for use by an elderly person or person with a medical necessity. Rep. C. McGuire of Epsom; **M&CG.**

HB 1125 requires police to return a stolen computer or other technological device to its owner within 48 hours after its recovery. Rep. Hoell of Bow; **JUD-H.**

HB 1134 requires a municipality to allow broadband Internet service providers to install lines along existing rights-of-way without charge. Rep. Abramson of Seabrook; **ST&E.**

HB 1141 includes "agritourism" within the definition of "agriculture." Rep. Haefner of Hudson; **E&A.**

HB 1144 eliminates the requirement that notice of sessions for correction of the checklist be advertised in a newspaper. Rep. Souza of Manchester ; **EL.**

HB 1153 prohibits a municipality from restricting the residence of a sexual offender or offender against children. Rep. Welch of Kingston; **CJ&PS.**

HB 1154 authorizes and regulates the use of license plate scanning devices by law enforcement officers. Rep. Peterson of Bedford; **TRANS-H.**

*(Continued from Page 5)*

House Bills

HB 1156 exempts public transit bus operators from the prohibition on using a device to interfere with the operation of a traffic signal. Rep. Higgins of Hanover; **TRANS-H.**

HB 1161 reorganizes the traffic safety commission. Rep. Crawford of Center; **TRANS-H.**

HB 1164 allows cities to make voluntary contributions to any county or state project. Rep. T. Smith of Manchester; **M&CG.**

HB 1167 repeals the administrative procedure act. Rep. Brewster of Barnstead; **ED&A-H.**

HB 1173 requires DRA to collect information about meals and rooms tax revenues collected in each municipality and make the information available to the governing body of the municipality. Rep. Cushing of Hampton; **W&M-H.**

HB 1179 provides that manufactured housing located on land of another may be taxed to the owner of the land if the tax is not paid by the owner of the manufactured housing. Rep. Abbott of Hinsdale; **M&CG.**

HB 1180 authorizes municipalities to issue bonds for broadband infrastructure. Rep. Leishman of Peterborough; **M&CG.**

HB 1181 permits the appointment of alternate cemetery trustees. Rep. McConnell of Keene; **M&CG.**

HB 1185 requires an employer to allow an employee to take a half-hour lunch break, and removes the option of the employee's eating during the performance of his work. Rep. Potucek of Derry; **LABOR.**

HB 1187 repeals the requirement that any showman, tumbler, rope dancer, ventriloquist or other person obtain a license from the selectmen before performing for pay. Rep. Schleien of Hudson; **ED&A-H.**

HB 1198 establishes a valuation formula for telephone poles and conduits for property tax purposes. Rep. Abrami of Stratham; **W&M-H.**

HB 1202 requires that an application to a planning board be filed at least 21 days before the meeting at which it will be considered. Rep. Belanger of Hollis; **M&CG.**

HB 1203 requires a zoning board of adjustment to vote separately on each of the criteria for granting a variance. Rep. Belanger of Hollis; **M&CG.**

HB 1205 includes libraries with children's programming in the definition of a drug-free-school zone. Rep. Gray of Rochester; **EDUC-H.**

*(Continued from Page 6)*

House Bills

HB 1214 allows municipalities to assess a surcharge on hotel occupancy under the meals and rooms tax. Rep. Pantelakos of Portsmouth; **M&CG.**

HB 1216 requires public bodies and agencies to compile information in a form not ordinarily kept upon request from a citizen. Rep. Verschueren of Dover; **JUD-H.**

HB 1219 extends to 30 days (from 15) the time that a former owner of tax-deeded property has to repurchase the property after giving notice of intent to do so. Rep. Coffey of New Ipswich; **M&CG.**

HB 1220 repeals the provision for appointment of a temporary replacement of an election official who is disqualified from performing election duties because his or her name is on the ballot. Rep. Gray of Rochester; **EL.**

HB 1221 defines "one-time expenditure" for purposes of the default budget to include items expected to have a useful life of at least three years. Rep. Fromuth of Bedford; **M&CG.**

HB 1222 prohibits a municipal assessor from applying a statistical update to a property until at least three attempts have been made to conduct an in-person inspection. Rep. Fromuth of Bedford; **M&CG.**

HB 1223 makes a technical change to the procedure for changing a voter's address on election day. Rep. Gray of Rochester; **EL.**

HB 1230 allows a dog owner to provide the name of an emergency contact on the dog license form. Rep. Sad of Walpole; **M&CG.**

HB 1242 requires the commissioner of transportation to adopt rules for driveway permits under RSA 236:13. Rep. D. McGuire of Epsom; **PW.**

HB 1243 modifies the penalties for violations of municipal sewer ordinances. Rep. C. McGuire of Epsom; **M&CG.**

HB 1244 allows municipalities to enter into agreements with other entities to provide for cemeteries. Rep. C. McGuire of Epsom; **M&CG.**

HB 1251 requires the department of transportation to repair and upgrade a section of Main Street in Pittsfield. Rep. Brewster of Barnstead; **PW.**

HB 1252 permits employers to pay wages weekly or biweekly. Rep. Sanborn of Bedford; **LABOR.**

HB 1253 modifies the provisions for removal of a land use board member and repeals the selectmen's authority to remove a clerk, tax collector, or treasurer for insanity or incapacity. Rep

*(Continued from Page 7)*

House Bills

Cordelli of Tuftonboro; **M&CG.**

HB 1259 provides that a planning board applicant is not required to reimburse the board for third-party review of a plan designed by a licensed engineer that pertains to only one lot. Rep. Howard of Alton; **M&CG.**

HB 1260 removes authority of assessing officials to obtain an administrative inspection warrant. Rep. Abramson of Seabrook; **M&CG.**

HB 1262 provides that in a district zoned for residential use only, residential use shall include any home-based business with gross receipts of $200,000 or less. Rep. Abramson of Seabrook; **M&CG.**

HB 1263 authorizes municipalities to use form-based codes as an innovative land use control. Rep. Abramson of Seabrook; **M&CG.**

HB 1265 Allows towns to establish a system of approval voting in local primary elections. Rep. Schleien of Hudson; **EL.**

HB 1275 Increases to 100 megawatts the cap on net energy metering tariffs available to eligible customer-generators. Rep. Mann of Alstead; **ST&E.**

HB 1276 allows a taxpayer to raise legal claims addressing constitutional issues in an abatement application or appeal. Rep. Brewster of Barnstead; **JUD-H.**

HB 1282 updates the definition of the state building code to include the 2015 editions of the International Building Code and other codes. Rep. C. McGuire of Epsom; **ED&A-H.**

HB 1284 prohibits a governing body from removing an elected highway agent. Rep. D. McGuire of Epsom; **M&CG.**

HB 1292 allows a municipality to require local land use board approval for re-establishment of certain agricultural uses after abandonment. Rep. Haefner of Hudson; **E&A.**

HB 1293 prohibits substantive changes to proposed charter amendments submitted by voter petition and makes other changes to the amendment process. Rep. Cheney of Dover; **M&CG.**

HB 1296 requires legislative body approval for the appointment of a town manager and prohibits a town manager from hiring a contractor to perform his or her duties. Rep. Marple of Hooksett; **M&CG.**

HB 1297 establishes a cause of action against a public servant for diminishing any inhabitant's "unalienable rights or privileges." Rep. Marple of Hooksett; **CJ&PS.**

*(Continued from Page 8)*

House Bills

HB 1299 requires that background checks for employees and volunteers at youth skill camps be performed at least every three years. Rep. Manley of Bennington; **RR&D.**

HB 1304 requires a town to maintain a road that has been designated as a highway to summer cottages if an abutter becomes a full-time resident. Rep. Sterling of Jaffrey; **M&CG.**

HB 1308 allows a motorcycle to pass a vehicle in the same lane or travel between lanes of traffic when traffic is stopped or traveling less than 10 miles per hour. Rep. Lachance of Manchester; **TRANS-H.**

HB 1312 prohibits the application of pesticides to school grounds or municipal playgrounds except in an emergency as determined by the commissioner of agriculture. Rep. Bixby of Dover; **E&A.**

HB 1313 amends the definition of domicile for voting purposes, requires that a person be domiciled in the state for at least ten days before voting, and modifies the voter registration form. Rep. Gannon of Sandown; **EL.**

HB 1322 requires public employers to calculate and report to the public employee labor relations board, the board of the public employer, and each employee within the bargaining unit the ratio of the number of employees in the unit paying dues to the total number of employees in the unit. Rep. Hill of Northfield; **LABOR.**

HB 1335 requires the police standards and training council to develop a process for random testing of police officers for steroid use. Rep. Abramson of Seabrook; **CJ&PS.**

---

## NHMA WEBINAR

MAKE YOUR CITY OR TOWN "ELECTION READY" IN 2016

Event Date: Wednesday, January 6, 2016
Time: 12:00 PM - 1:00 PM

Contact Phone: 603.224.7447

Join Legal Services Counsel Stephen Buckley and Staff Attorney Margaret Byrnes for a detailed look at election procedure, including voter registration and identification; absentee voting procedures and requirements; ballot counting and recounts; arrangement of the polling station; and the duties and roles of various election officials, including the moderator, supervisors of the checklist, and town/city clerk.

REGISTER HERE!

***Registration deadline is noontime, January 4, 2016.***

## Upcoming NHMA Workshops

| | |
|---|---|
| January 9, 2016 | Town & School Moderators (SB 2) [click here] |
| January 15, 2016 | A Hard Road to Travel [click here] |
| February 20, 2016 | Town & School Moderators (Traditional Meeting) [click here] |

For more information or to register, please access our website: www.nhmunicipal.org and scroll down on the left to CALENDAR OF EVENTS, *View the Full Calendar*

Contact us by phone at 1-800-852-3358 x3350 or
email us at NHMAregistrations@nhmunicipal.org