

LEGISLATIVE BULLETIN

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Committee to Vote on Pole Exemption

The House Science, Technology and Energy Committee has scheduled an executive session for next **Tuesday, February 7**, at which it is likely to vote on **HB 1305**, which would exempt telephone poles and conduits from property taxation. ***Please contact members of the [committee](#) before then and ask them to vote against HB 1305.***

At the bill's hearing this week, where telecommunication industry lobbyists outnumbered committee members, the telephone and cable company representatives tried to explain why they are the only for-profit businesses in New Hampshire that should get a tax exemption for an entire class of property. The following were their primary arguments:

“We’ve never paid local property taxes before.” This doesn't seem like the kind of fact one would want to emphasize about oneself.

Telephone companies have to pay taxes on their other properties. And therefore they shouldn't have to pay taxes on their poles. This is like saying that if you own two houses and pay taxes on one of them, the second one should be exempt, because you're already paying enough.

Assessing the poles is too complicated, and different towns assign different values. Municipalities have been assessing ***the same poles*** for over a century—because most of the poles in the state are owned jointly by the phone company and the electric company, which pays taxes on them. And, by the way, somehow 48 other states manage to assess and tax their poles. We don't believe assessors in New Hampshire are any less competent than those in the rest of the country.

Lots of things are complicated to assess—shopping malls, college campuses, nuclear power plants. Somehow we manage. If a town over-assesses the property, there is an abatement and appeal process.

Well, yes, poles are taxed in 48 other states, but “other states don't have a Communications Services Tax.” That is a direct quote, or close to it, from one of the industry supporters of the bill. Not that we believe it's relevant—lots of businesses collect various kinds of sales

Pole Exemption - continued

taxes, such as tobacco taxes, gas taxes, and meals and rooms taxes, yet they still pay property taxes—but we decided to check. To find another state with a tax comparable to the CST, we had to go all the way to . . . Maine. Maine imposes a 5 percent tax on all telecommunication services.

In fact, in direct contradiction of the testimony at the hearing, it turns out that **every New England state** has a tax on telecommunications services very similar to the CST: 6 percent in Vermont, 6.25 percent in Massachusetts, 7 percent (same as New Hampshire) in Rhode Island, and 6 percent in Connecticut. We did not check the remaining 44, as the pattern seemed clear enough.

The issue here is simple. The property tax on telephone poles is a straightforward tax on real estate owned by a for-profit company. Tax exemptions are for the blind, the disabled, the elderly, and veterans. Businesses are subject to property taxes without regard to whether they are flourishing or floundering, or what other taxes they pay, or who their customers are, or how valuable their services are, or how it will affect their ability to compete with other businesses. Other businesses may complain about their taxes, but they don't expect special treatment. This governmental benefit to one industry, mandated by state law and forced upon local property taxpayers, expired two years ago (as was the intent when it was enacted), and it is time to let it go.

We are not confident of a favorable committee vote, but we know the battle will be won or lost on the floor of the House. The bill probably will go to the full House on **Wednesday, February 15**. Indications are that representatives are continuing to migrate to our side. Please help sustain the momentum by calling your representatives and urging them to **oppose HB 1305**. Please refer to the [pole exemption fact sheet](#) on our website for more information.

Taxpayer Group Opposes Pole Exemption

We were pleased, but hardly surprised, to learn this week that New Hampshire's most prominent taxpayer advocacy group, Granite State Taxpayers—hardly a consistent ally of the Municipal Association—is also opposed to the pole exemption. In an [article](#) about the issue in the *Eagle Tribune*, Granite State Taxpayers leader Jim Adams said, “[The pole exemption] is not a good idea. We were happy it was removed and we're going to stay there.” He continued, “Look at all the tax breaks the state gave to Verizon, then they left the state.”

We certainly do not agree with the Granite State Taxpayers on everything, but we do acknowledge that they are committed to keeping property taxes low. Clearly, they recognize what we have been saying all along: bringing back the pole exemption will result in a **property tax increase** for everyone. Legislators who are committed to controlling property tax rates for everyone—not just for a single industry—will **vote against HB 1305**.

Amendments to Warrant Articles at Deliberative Session

The Senate Public and Municipal Affairs Committee has scheduled a hearing on **SB 261**, relative to requirements for warrant articles, for **Tuesday, February 7, at 10:20 a.m., in LOB Room 101**. The sponsor plans to present an amendment at the hearing. The amended bill would make a number of changes regarding warrant articles, some of which would apply to all towns and some only to official ballot (SB 2) towns. Most notably, it would prohibit voters at an SB 2 deliberative session from amending any warrant article to “reverse the intent of the article.” We do not have major concerns about the rest of the bill, but do have concerns—which we have discussed with the sponsor— about limiting voters’ ability to amend warrant articles, and about whether the language “reverse the intent of the article” provides a clear standard for what will be disallowed.

Hearing on Yet Another Spiking Amendment

On **Thursday, February 9, at 9:00 a.m., in SH Room 100**, the Senate Executive Departments and Administration Committee will reconvene the recessed hearing on **SB 246** to hear testimony on another amendment to the pension spiking provision. As we reported in last week’s *Bulletin*, the sponsor of **SB 246** acknowledged that the bill as drafted was more complicated than needed, so he laid out a simpler formula and offered to provide an amendment along those lines. We continue to have concerns about the propriety and equity of any spiking assessment formula, particularly in light of the pension reform measures enacted last year. **Please urge committee members to recommend Inexpedient to Legislate on SB 246, and to recommend Ought to Pass on SB 228, which will repeal the pension spiking provision altogether.**

Interest Rate Bill Amended

On Thursday the House Municipal and County Government Committee heard testimony on **HB 1674**, which proposes to reduce the interest rates on delinquent taxes from 12 percent pre-lien and 18 percent post-lien to 6 percent and 9 percent, respectively. Opening remarks by the prime sponsor were prefaced with an apology to the committee, since the bill as drafted was incorrect. The intent was not to present the same bill as last year, **HB 457**, but rather to present the same bill from two years ago, **HB 1335**. That bill provided a local option for the legislative body to authorize the governing body to set the interest rates within a range of 6 percent to 12 percent pre-lien and 9 percent to 18 percent post-lien. That bill passed the House but was killed in the Senate.

Several municipal officials, along with NHMA, testified in opposition to **HB 1674** as introduced, with a consistent message that there are sufficient options available to deal with delinquent taxpayers on a case-by-case basis, and that lowering the interest rates will create a disincentive to pay property taxes on time. New this year was testimony from a county official opposing the bill, noting that there is a domino effect on other local governments, explaining how important it is for municipalities to receive the property tax revenues needed to pay their school and county tax commitments on time.

Interest Rate Bill - continued

During the course of the hearing, the committee was provided with the amendment that changed **HB 1674** to now read exactly as **HB 1335** – providing a local option to set the interest rates. While we always appreciate a local option provision in legislation, in this case we believe sufficient local options already exist for municipalities to assist delinquent taxpayers.

The chair indicated that an executive session on **HB 1674** will be scheduled for **Tuesday, February 14**. If you have concerns about the bill, please contact members of [the committee](#).

Retirement Contributions on Rehired Retirees

The House Special Committee on Public Employee Pension Reform has scheduled a work session for **Friday, February 10, at 9:30 a.m. in LOB Room 306** on **HB 1306**, which proposes to require employer contributions to the New Hampshire Retirement System (NHRS) on compensation paid to an NHRS retiree working part-time. The intent of the bill is to have employers pay more toward the unfunded liability of \$4 billion.

We are particularly concerned about the impact this bill may have on smaller municipalities that rely more on part-time employees. For example, it would not be unusual for a town to hire a retired state employee as a part-time worker in the library or town hall. According to the Retirement System, the rates that would be charged under the bill would be 6.36 percent on the compensation of rehired employees, 10.08 percent for rehired teachers, 14.43 percent for police, and 15.65 percent for firefighters. If you have concerns about the effect on your municipality, please contact members of [the committee](#).

Capital Reserve Fund Investment/Management Fees

On Tuesday, **SB 243**, relative to the management of trust funds and capital reserve funds, had a hearing in the Senate Public and Municipal Affairs Committee. The first few sections of the bill clarify existing laws regarding electronic recordkeeping and the use of investment advisors. Latter sections deal with investment/management fees.

Under current law, expenses relating to the investment/management fees of trust funds can be netted against the income of those trusts. That is not true for capital reserve funds, which currently require an appropriation for those fees. It is our understanding that the legislature historically has treated trust funds from private sources differently than capital reserve funds, which are funded by taxation, and the process for paying the investment/management fees is one example of different treatment between the two. **SB 243** proposes to allow the investment/management fees associated with capital reserve funds to be netted against the income earned on those funds rather than requiring an appropriation via the budget process. The bill as introduced only applies to cities, but the intent is to amend the bill so that it applies to all municipalities.

NHMA does not have a position on this bill, and therefore did not testify. However, [Senate Public and Municipal Affairs Committee](#) members expressed interest in hearing from their municipal constituents on the merits of, or concerns about, this bill. Please contact committee members if you have an opinion.

HOUSE CALENDAR
JOINT HOUSE/SENATE MEETINGS ARE LISTED UNDER THIS SECTION

TUESDAY, FEBRUARY 7

COMMERCE AND CONSUMER AFFAIRS (BANKING/BUSINESS DIVISION), Room 302, LOB

10:00 a.m. **HB 1628-FN-L**, relative to compliance with fire safety and state building code requirements by municipalities.

CONSTITUTIONAL REVIEW AND STATUTORY RECODIFICATION, Room 206, LOB

10:00 a.m. **HB 1536**, relative to the preservation of religious freedom.

2:00 p.m. Subcommittee work session on **HB 1541**, repealing the authority of officials to enter and examine the premises of an automotive recycling dealer.

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:30 a.m. **HB 1651-FN**, requiring the division of state police to equip special weapons and tactics (SWAT) units or teams with tactical cameras.

1:30 p.m. **HB 1494-FN**, relative to verification of immigration status of all persons arrested or detained by law enforcement officers.
Executive session may follow.

FINANCE – (DIVISION II), Room 209, LOB

9:30 a.m. Work session on **HB 533-FN-L**, establishing a cap on the amount of school building aid grants distributed in each fiscal year.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

10:00 a.m. **HB 1303**, amending certain requirements to obtain a local vendor license.

10:30 a.m. Continued public hearing on **HB 1522-FN**, reducing the penalty for violating a local vendor ordinance.

11:00 a.m. Rescheduled public hearing on **HB 1224**, allowing municipalities to send tax, water, and sewer bills electronically and establishing a committee to study municipal functions which could be performed electronically to achieve cost savings.

11:30 a.m. Rescheduled public hearing on **HB 1626**, establishing a committee to study the current use taxation of farm land and farm structures in which utility lines or services are installed.

1:30 p.m. Rescheduled public hearing on **HB 1215-L**, relative to town library budgets.

2:00 p.m. Rescheduled public hearing on **HB 1160**, establishing a committee to study the feasibility of allowing towns to split into smaller political subdivisions.

WAYS AND MEANS, Room 202, LOB

11:00 a.m. **HB 602-FN-A**, relative to funding the law requiring reporting of health care acquired infections.

3:00 p.m. **HB 1678-FN-A-L**, establishing video lottery and table gaming at certain locations in New Hampshire.

THURSDAY, FEBRUARY 9

CHILDREN AND FAMILY LAW, Room 206, LOB

10:15 a.m. Continued public hearing on **HB 1554**, relative to fire code requirements for licensed foster homes.

House Calendar - continued**EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB**

- 10:45 a.m. **HB 1550**, relative to conflicts of interest.
 11:30 a.m. **HB 1502-FN**, relative to appeal of abatement requests to the board of tax and land appeals.

JUDICIARY, Room 208, LOB

- 9:00 a.m. **HB 1178**, relative to the losing party's payment of the prevailing party's costs in tort actions.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Representatives Hall

- 1:30 p.m. Rescheduled public hearing on **HB 1677-FN**, relative to choice as to whether to join a labor union and eliminating the duty of a public employee labor organization to represent employees who elect not to join or to pay dues or fees to the employee organization.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 9:30 a.m. **HB 1201**, relative to the assessment of property taxes on Pinkerton Academy.
 10:30 a.m. **HB 1561-FN**, discontinuing regional planning commissions.
 1:00 p.m. **HB 1329**, relative to the default budget in certain towns.
 1:30 p.m. **HB 1159**, defining a default budget for a municipality.
 2:00 p.m. **HB 1497**, relative to the writing of warrant articles.
 2:30 p.m. Continued public hearing on **HB 1588**, recodifying the laws relative to sheriffs, constables, and police officers.
 3:00 p.m. Full committee work session on **HB 1482**, relative to the exemption from property taxation for hospitals.

FRIDAY, FEBRUARY 10**SPECIAL COMMITTEE ON PUBLIC EMPLOYEE PENSIONS REFORM, Rooms 306-308, LOB**

- 9:30 a.m. Full committee work session on **HB 1306-FN-L**, requiring retirement system employers to make contributions for part-time employment of retired members of the retirement system.

MONDAY, FEBRUARY 13**COMMITTEE TO STUDY WATER INFRASTRUCTURE SUSTAINABILITY FUNDING (SB 60, Chapter 245:1, Laws of 2009), Room 100, State House**

- 1:00 p.m. Regular meeting.

TUESDAY, FEBRUARY 14**CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB**

- 11:00 a.m. Rescheduled public hearing on **HB 1584**, relative to the authority of police chiefs.
 2:00 p.m. Rescheduled public hearing on **HB 1630**, relative to traffic control at public meetings or functions.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

- 10:00 a.m. **HB 1716**, relative to the state 10-year transportation improvement program. This is the 10-year highway plan. The hearing will deal with the 10 year process; schedule and capital funding for highways and bridges.

House Calendar - continued

1:00 p.m. Continued public hearing on **HB 1716**, relative to the state 10-year transportation improvement program. The continued hearing will deal with Federal Aid and Highway Program – I-93 widening and GACET and Governor's recommendations.

TRANSPORTATION, Room 203, LOB

1:45 p.m. Continued public hearing on **HB 1478**, relative to the definitions of resident for motor vehicle law purposes and domicile for voting purposes and relative to vehicle registration and driver's license requirements.

THURSDAY, FEBRUARY 16**CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB**

10:00 a.m. Rescheduled public hearing on **HB 1468**, relative to seizure of personal property.

10:30 a.m. Rescheduled public hearing on **HB 1499-FN**, relative to criminal coercion.

11:00 a.m. Rescheduled public hearing on **HB 1524-FN**, expanding the definition of official oppression.

1:00 p.m. Rescheduled public hearing on **HB 1514-FN**, establishing the crime of oppressing an inhabitant's free exercise of rights.

1:30 p.m. Rescheduled public hearing on **HB 1327**, relative to official oppression.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB

1:15 p.m. **HB 1631**, allowing persons licensed to provide emergency medical services to work public gatherings and events.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Representatives Hall

9:00 a.m. Rescheduled public hearing on **HB 1685-FN-L**, relative to collective bargaining under the public employee labor relations statutes.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

9:30 a.m. Continued public hearing on **HB 1716**, relative to the state 10-year transportation improvement program. The 10 year highway plan portion of the hearing will deal with Turnpikes, Betterment Program, State Bridge Aid and State Highway Aid.

1:00 p.m. Continued public hearing on **HB 1716**, relative to the state 10-year transportation improvement program. This part of the hearing will deal with Aeronautics, Rail, Transit, TE and CMAQ.

Senate Calendar**TUESDAY, FEBRUARY 7****INTERNAL AFFAIRS, Room 100, SH**

1:00 p.m. **HB 592**, apportioning state representative districts and relative to the boundaries of wards.

PUBLIC AND MUNICIPAL AFFAIRS, Room 101, LOB

9:00 a.m. **SB 225**, relative to fees for vital records.

9:20 a.m. **SB 238**, establishing a committee to assess the form of government in towns that have elected the official ballot referendum form of meeting.

9:40 a.m. **SB 247-L**, relative to certifying municipal culvert installers.

10:00 a.m. **SB 248**, relative to the installation of municipal culverts.

10:20 a.m. **SB 261**, relative to requirements for warrant articles.

Senate Calendar - continued**WAYS AND MEANS**, Room 103, SH

- 1:00 p.m. **SB 382-FN-L**, allowing changes to property assessments for damaged buildings or for new construction.
- 1:30 p.m. **SB 386-FN-A**, authorizing the state treasurer to issue bonds for highway construction.

THURSDAY, FEBRUARY 9**EXECUTIVE DEPARTMENTS AND ADMINISTRATION**, Room 100, SH

- 9:00 a.m. **SB 246-FN**, relative to the calculation of employer assessments for excess retirement system benefits.

JUDICIARY, Room 101, LOB

- 1:15 p.m. **SB 385**, relative to police investigations of motor vehicle accidents involving police officers.

TUESDAY, FEBRUARY 14**PUBLIC AND MUNICIPAL AFFAIRS**, Room 101, LOB

- 9:20 a.m. **SB 378**, allowing municipalities to remove snow from private roads and driveways and class VI highways.
- 9:40 a.m. **SB 269**, relative to the definition of default budget in towns that use official ballot voting.
- 10:10 a.m. **SB 340**, relative to locations for junkyards.
- 10:30 a.m. **SB 342**, including standards for log homes in the New Hampshire building code.
- 10:50 a.m. **SB 322-L**, relative to the holding of gold and silver by municipalities.

2012 NEW HOUSE BILL

HB 1721 allows a sewage disposal system to be expanded, relocated, or replaced without a permit from the department of environmental services if there is no increase in the load on the system, the system was constructed in accordance with approval from the department, the system is not in failure, and no load has been added to the system since the issuance of the initial approval. Rep. Ritter of Kensington; **RR&D**.

**HOUSE FLOOR ACTION**

Wednesday, February 1, 2012

HB 121, (New Title) relative to eligibility for the property tax exemption for the disabled. **Ought to Pass with Amendment.**

HB 1156, relative to preserving due process in all common law matters. **Inexpedient to Legislate.**

HB 1170, allowing municipalities to authorize the inclusion of a statement of the estimated tax impact of the budget and special warrant articles to be voted at annual meeting. **Ought to Pass.**

Floor Action - continued

HB 1242, relative to membership dues paid by towns. **Inexpedient to Legislate.**

HB 1253, relative to bridge aid and highway block grants for class V roads in certain village districts. **Inexpedient to Legislate.**

HB 1266, requiring the assessing standards board to recommend standards rather than guidelines. **Ought to Pass.**

HB 1286, relative to the installation of sprinklers. **Inexpedient to Legislate.**

HB 1314, establishing a committee to study the maintenance of water and sewer infrastructure. **Inexpedient to Legislate.**

HB 1320-FN-L, relative to law enforcement responsibility for interstate highways. **Inexpedient to Legislate.**

HB 1388, relative to speeding in the compact part of cities and towns. **Inexpedient to Legislate.**

HB 1429, enabling municipalities to adopt a property tax credit based on home renovation costs. **Inexpedient to Legislate.**

HB 1449, requiring a search warrant for searches of privately-owned property. **Recommit.**

HB 1482, relative to the exemption from property taxation for hospitals. **Recommit.**

HB 1486, prohibiting the state from accepting federal funds that could be used to enhance the militarization or federalization of law enforcement. **Inexpedient to Legislate.**

HB 1621, repealing certain statutes. **Inexpedient to Legislate.**

HB 1711, relative to the use of cooking fires. **Inexpedient to Legislate.**


2012

ELECTED City Officials WORKSHOP

Saturday, February 11
(Snow date: Saturday, February 18)

9 a.m. – 1:30 p.m.
Local Government Center, Concord, NH
Registration and continental breakfast begins at 8:30 a.m.

Overview
New and experienced elected city officials will gain valuable knowledge at this informational program on topics relevant to city government. Presented by New Hampshire Local Government Center (LGC) and New Hampshire Municipal Association (NHMA) staff, session highlights include discussion of the Right to Know Law, the process for setting property tax rates, the New Hampshire Retirement System and other 2012 legislative issues. Attendees will receive a copy of LGC's 2012 edition *Guidebook for New Hampshire Elected City Officials*. Continental breakfast and lunch will be provided.



AGENDA

8:30 a.m. Registration and Continental Breakfast

9:00 a.m. Welcoming Remarks and Overview of LGC/NHMA Services
Maura Carroll, Executive Director

9:15 a.m. Why New Hampshire Is Not a 'Home Rule' State and How the Tax Rate Is Determined
This session will address two topics. First: Principles that limit municipal authority, including constitutional provisions, State enabling legislation and the doctrine of state preemption. Second: In a period of declining real estate values, taxpayers are confused about their property taxes and rising tax rates. The mechanics of the tax rate setting process, including property valuation, appropriations and revenues will be discussed.
David R. Connell, Legal Services Counsel

10:00 a.m. Right to Know Law: Public Meetings
"Openness in the conduct of public business is essential to a democratic society." RSA 91-A:1. This session will explain the requirements for public meetings, nonpublic sessions and minutes of meetings, and the use and misuse of electronic communication, including social media.
C. Christine Fillmore, Staff Attorney

10:30 a.m. Break

10:45 a.m. Right to Know Law: Governmental Records
This session will deal with the public's right to inspect and copy governmental records, including electronic records, and the valid exemptions from disclosure. Several important recent court decisions on disclosure of governmental records will be discussed.
C. Christine Fillmore, Staff Attorney

11:15 a.m. Retirement Update
Current issues regarding the financial status of the New Hampshire Retirement System will be addressed, including proposed rate increases, legislative proposals and other potential system changes.
Barbara T. Reid, Government Finance Advisor

11:45 a.m. NHMA Government Affairs Program, Revenue Sharing and Other Current Legislative Issues
Members of NHMA's Government Affairs staff will describe NHMA's legislative policy process, discuss why involvement of city officials is critical, and explain how local officials can best participate. The presentation will include a review of current legislative issues, including state-local revenue sharing and an update on the 2012 legislative session.
Judy A. Silva, Deputy Director for Legal Services and Government Affairs
Cordell A. Johnston, Government Affairs Counsel

12:15 p.m. Q&A Luncheon
LGC/NHMA staff will respond to your questions.

Register Today!

This workshop is complimentary to city officials of NHMA member municipalities. Pre-registration by February 4 is required. Register online at www.nhlgc.org/cities

Questions? Contact Judy Pearson at 800.852.3358, ext. 150, or email registrations@nhlgc.org.

Name: _____

Title: _____

Municipality: _____

Mailing Address: _____

Phone: _____ Email: _____

Cancellations must be received 48 hours in advance. Please note: If cancellation is not received 48 hours in advance, the LGC will invoice you for \$20 to cover the cost of meals and materials.

If you have questions or require special accommodations, please call Judy Pearson at 800.852.3358, ext. 150.