

New Hampshire Municipal Association  
Legislative Policy Process 2019-20

Final Policy Recommendations for Legislative Policy Conference  
September 14, 2018

General Administration and Governance

Action Policy Recommendations

1. Funding for the Police Standards and Training Council

To see if NHMA will SUPPORT the continued operation of the New Hampshire Police Academy and the high-quality uniform training it provides for all law enforcement officers in the state, including municipal police officers, which aids in the delivery of quality policing services and interagency cooperation to the benefit of all citizens. As part of this, to see if NHMA will SUPPORT continued funding at the state level for the Police Academy and the Police Standards and Training Council. Local law enforcement agencies produce considerable funds through fines and penalty assessment monies which accrue to the State and are used for State purposes. Further, to see if NHMA will OPPOSE any increase in municipal costs for police officers to participate in the training, recognizing that municipalities now pay salary, benefits, and all employment-related costs for trainees while at the Academy, as well as providing staff and instructors at no cost to the Academy. Existing policy, revised by the committee.

2. Absentee Voting Expansion

To see if NHMA will SUPPORT allowing absentee voting without requiring a reason.

**Explanation:** At present, 27 states plus the District of Columbia permit absentee voting without requiring an excuse. Maine and Vermont are among the 27. Why not New Hampshire? People are kept from the polls because they are reluctant to say they are “disabled” (especially when they are just elderly) or otherwise find it difficult to vote in person. Voting should not require having to struggle with one’s conscience over whether they fit into one of the state-approved “legitimate” reasons for an absentee ballot. Submitted by Gail Cromwell, Co-chair, Temple Select Board.

3. Electronic Poll Books

To see if NHMA will SUPPORT legislation that would enable the use of electronic poll-books for municipalities, with funding coming from the HAVA funds made available to the New Hampshire Secretary of State by the United States Election Assistance Commission specifically for the purpose of improvement to the administration of federal elections in the state, as well as supporting legislative changes to statutes to make the use permissible under state laws. Existing policy.

## Priority Policy Recommendations

### 4. Building Plans Under RSA Chapter 91-A

To see if NHMA will SUPPORT an amendment to RSA 91-A:5, IV to specifically add building plans/construction drawings contained within a building permit file and/or building plans/construction drawings submitted as part of a building permit application as an exempt record under the statute. Existing policy.

### 5. Municipal Regulation of Firearms

To see if NHMA will SUPPORT legislation that would allow for limited local authority regarding possession and use of firearms on municipal property.

- Legislation that would allow municipalities to regulate or limit the use of firearms on municipal property.
- Legislation that would allow municipalities to regulate the carrying of firearms by employees while they are performing the functions of their office or employment.

**Explanation:** Local governing bodies are best positioned to determine the most appropriate use of municipal land and the actions of their employees. Submitted by Joan Dargie, Town Clerk, Milford, and revised by the committee.

### 6. Welfare Lien Priority

To see if NHMA will SUPPORT legislation to give liens for local welfare payments arising under RSA 165:28 a higher priority position, so that those liens fall immediately after the lien for the first mortgage. Existing policy.

### 7. Municipal Departments and MV Information

To see if NHMA will SUPPORT legislation to make it clear that municipalities may obtain information about motor vehicles registered to an individual for all governmental purposes such as verifying asset levels when the individual is applying for general assistance or asset-based tax relief and in order to determine the ownership of vehicles for official purposes. Existing policy.

## Standing Policy Recommendations

### 8. SB 2 Adoption Process

To see if NHMA will SUPPORT amending RSA 40:14, III, regarding adoption of the official ballot referendum (SB 2) form of town meeting, to provide that the question shall be voted on by ballot at the annual meeting, but shall not be placed on the official ballot.

**Explanation:** Adoption of the official ballot referendum form of town meeting is a fundamental change in a town's governance. It is an action that should be undertaken only after thorough discussion and debate, with an opportunity for the legislative body to be fully informed. Current law requires that the question be placed on the official ballot, so that it is voted on in the voting booth on election day, with no opportunity for discussion or debate. The statement of the question is simply, "Shall we adopt the provisions of RSA 40:13 (known as SB 2) to allow official ballot voting on all issues before the town on the second Tuesday of March?" This provides almost no information about how the SB 2 form of meeting works.

Although the current law does require a public hearing on the question between 15 and 30 days before town meeting, those hearings are poorly attended, so the overwhelming majority of those voting on the question will have heard little or no discussion, and many of them will have a very poor understanding of the issue. Other matters of profound importance to town governance—such as establishing a budget committee and adoption of a tax cap—are voted on at the business session, rather than by official ballot. Adoption of SB 2 is an even more serious step and should be subject to at least a similar level of consideration. Discussion and debate at the business session will help to ensure that voters understand the issues better before voting on the question. **Submitted by Jim Belanger, Moderator, Hollis, and Frank Sterling, Selectman, Jaffrey.**

## **9. Allowing Towns to Adopt Ordinances Under City Statutes**

**To see if NHMA will SUPPORT** legislation giving towns the same authority to adopt ordinances that cities have under RSA 47:17.

**Explanation:** State law (RSA 44:2, 47:1) gives cities all of the authority that towns have, but there is no reciprocal statute giving towns the authority that cities have. City councils have broad authority to adopt ordinances under RSA 47:17. Town ordinance authority is governed primarily by RSA 31:39, which grants more limited authority. There seems to be no logical reason for cities to have broader ordinance authority than towns. When towns want to exercise authority that cities already have, it is necessary to amend RSA 31:39 or add a new section in RSA 39. This policy would avoid that necessity and eliminate illogical distinctions between municipal ordinances, which are especially troublesome when a town is unable to adopt the same ordinance that the city next door has adopted. This would not eliminate all distinctions between cities and towns—just the difference between their respective ordinance powers. **Submitted by Tom Irving, Planning Director, Conway.**

## **10. Public Area "No Smoking" Local Option**

**To see if NHMA will SUPPORT** legislation to authorize the designation of "No Smoking" zones in public areas by local option.

**Explanation:** Municipalities are charged with the responsibility for provision of the services and to ensure safe secure access to those services. Currently, some services may not be as accessible as they should due to the presence of smoke. There are also the associated costs in keeping areas litter free. The legislation would allow municipalities to define No Smoking zones in a way that meets the community's needs and would include the ability to implement them for health purposes.

Currently New Hampshire permits municipalities to enact ordinances for fire safety and sanitation purposes, but not health purposes, and New Hampshire's state smoking law preempts local

governments from doing so. Access to services is obstructed by the presence of smokers and their associated litter, and that litter might constitute a sanitation issue. The presence of smoke where non-smokers need to pass is objectionable and not supportive of a community's healthy community goal. Each community would have the opportunity for itself to enact local legislation on this issue. Submitted by Andrew Bohanan, Parks, Recreation, and Facilities Director, and Nancy Vincent, Library Director, Keene.

#### **11. Public Notice Requirements**

To see if NHMA will SUPPORT legislation to amend all public notice requirements to allow the choice of electronic notification and/or newspaper print, as well as posting in public places, for official public legal notification. Existing policy.

#### **12. Appointment of Town Clerks or Town Clerk/Tax Collectors**

**Legislative Body:** To see if NHMA will SUPPORT legislation to allow the legislative body to authorize the governing body to appoint town clerks and town clerk/tax collectors.

**Charter Towns:** To see if NHMA will SUPPORT legislation allowing towns that have adopted a charter under RSA chapter 49-D to determine how the town will choose its town clerk.

Existing policy, revised by the committee.

#### **13. Consolidated Policy on Collective Bargaining Items**

**Evergreen Clause:** To see if NHMA will OPPOSE legislation to enact a mandatory so-called "evergreen clause" for public employee collective bargaining agreements.

**Binding Arbitration:** To see if NHMA will OPPOSE mandatory binding arbitration as a mechanism to resolve impasses in municipal employee collective bargaining.

**Right to Strike:** To see if NHMA will OPPOSE a right to strike for public employees.

**Mandated Employee Benefits:** To see if NHMA will OPPOSE any proposals to mandate employee benefits, including any proposal to enhance retirement system benefits that may increase employer costs in future years, for current or future employees.

**Contracted Services:** To see if NHMA will SUPPORT legislation to give public employers greater flexibility to privatize or use contracted services.

Existing policy, revised by the committee.

#### **14. Maintenance and Policing of State-Owned Property**

To see if NHMA will SUPPORT legislation requiring the State to maintain and adequately support operations on state properties so those properties do not place undue burdens on the host municipalities. This would include legislation

- to enable municipalities to recover expenses of providing municipal services on state-owned property, such as policing relative to illegal activities and allowing municipalities to receive reimbursement/compensation from individuals engaged in the illegal activity; and
- to require the state to adequately maintain its property, including the removal/remediation of abandoned, deficient, hazardous, or blighted structures/facilities.

**Existing policy, revised by the committee.**

### **15. Independent Redistricting Commission**

To see if NHMA will **SUPPORT** the establishment of an independent redistricting commission for the appointment of representative, senatorial, executive council, and congressional districts. **Existing policy.**

## **Finance and Revenue**

### **Action Policy Recommendations**

#### **1. Use of RSA 83-F Utility Values**

To see if NHMA will:

- a) **SUPPORT** legislation that clarifies, under RSA 83-F, that no determination of utility value by the Department of Revenue Administration can be used in any way by the utility taxpayer in any application for abatement of tax under RSA 76:16 or any appeal thereof under RSA 76:16-a or RSA 76:17;
- b) **OPPOSE** any mandate that calls for the exclusive use of the unit method of valuation in the appraisal of utility property, by either administrative or legislative action; and
- c) **SUPPORT** the continuing right of municipalities to use any method of appraisal upheld by the courts.

**Revised by the committee to combine two existing policies.**

#### **2. New Hampshire Retirement System (NHRS)**

To see if NHMA will **SUPPORT** the continuing existence of a retirement system for state and local government employees that is strong, secure, solvent, fiscally healthy, and sustainable, that both employees and employers can rely on to provide retirement benefits for the foreseeable future. Further, to see if NHMA will **SUPPORT** continuing to work with legislators, employees, and the NHRS to accomplish these goals.

To that end, to see if NHMA will:

- a) **SUPPORT** legislation that will strengthen the health and solvency of the NHRS, ensure the long-term financial sustainability of the retirement system for public employers, and consider options and alternatives that provide reasonable changes in contribution rates;
- b) **OPPOSE** any legislation that: 1) expands benefits and would result in increases to municipal employer costs; 2) assesses additional charges beyond NHRS board-approved rate changes on employers; or 3) expands the eligibility of NHRS membership to positions not currently covered;
- c) **SUPPORT** the restoration of the state's 35% share of employer costs for police, teachers, and firefighters in the current defined benefit plan and any successor plan;
- d) **SUPPORT** the inclusion of municipal participation on any legislative study committee or commission formed to research alternative retirement system designs and the performance of a complete financial analysis of any alternative plan proposal in order to determine the full impact on employers and employees; and
- e) **OPPOSE** any action to further restrict municipalities' ability to employ NHRS retirees in part-time positions, either through hours restrictions or through imposition of new fees/costs.

**Existing policy, revised by the committee.**

### **3. Expansion of Local Authority to Institute Fees**

**To see if NHMA will SUPPORT** legislation that allows a municipality to exercise local control of non-property tax revenue streams with local legislative body approval to meet demands for services and/or infrastructure. Examples of such legislation may include such actions as: (a) allowing a municipal to adopt an additional surcharge under the meals and rooms tax on hotel occupancy within the municipality; and (b) allowing a municipality to increase the maximum optional fee for transportation improvements when collecting motor vehicle registration fees. **Existing policy, revised by the committee (existing policy supports a local option meals and rooms tax surcharge).**

## **Priority Policy Recommendations**

### **4. Enforcement of Motor Vehicle Registration Laws**

**To see if NHMA will SUPPORT** amending motor vehicle registration laws to strengthen the enforcement of those laws (through stepping up law enforcement and increasing penalties, including fines) to ensure collection of all state and local registration fees owed by New Hampshire residents.

**Explanation:** Municipalities are realizing a significant and growing annual revenue loss of motor vehicle permit fees and other fees, due to NH residents registering their automobiles, trucks and all other types of trailers through non-government agents in the State of Maine. Currently, RSA 261:140

only requires a \$100 fine for these violations, an insignificant amount when compared to the much greater savings a resident realizes when obtaining low-cost “multi-year” registrations (up to a 12-year period) through the State of Maine. Municipalities all over the state are vulnerable to online registrations. Businesses with fleets are specifically targeted. **Submitted by Portsmouth City Council.**

#### **5. Lien for Uncollected Ambulance/EMS Billings**

**To see if NHMA will SUPPORT** legislation to ensure the collection of unpaid bills for ambulance and other emergency services.

**Explanation:** Municipal EMS, unlike hospitals and home health care providers, have no remedy available for the collection of unpaid billing for ambulance service except through a collection agency (@33% fee) or small claims court. These mechanisms do not guarantee the municipality will be made whole and can be punitive to the responsible party when they can least tolerate it. Ambulance service has evolved dramatically from simply transporting individuals to the hospital. Today, early medical intervention significantly increases a patient’s survival probability; therefore municipal EMS is expected to provide costly basic and advanced life support before and during transport. Currently when faced with an unpaid ambulance billing, municipalities have to choose between sending the bill to collections, small claims court, or writing off the bill. Collections or small claims potentially exposes the responsible party to a burden at an inopportune time. To write off the debt unfairly places the financial burden on the taxpayers of the responding municipality. **Submitted by: Barbara Lucas, Town Administrator, and Neil Irvine, Selectman, Town of New Hampton.**

#### **6. Ownership Name Changes**

**To see if NHMA will SUPPORT** legislation requiring entities to file name changes and ownership changes at the registry of deeds to ensure that property taxes are assessed to the proper owner.

**Explanation:** Presently, name changes and property acquisitions by stockholders are not filed at the registry of deeds. Municipalities don’t know if ownership has changed, resulting in bills and other notices going to improper property owners. **Submitted by: Kathryn Temchack, Director of Real Estate Assessments, City of Concord**

#### **7. Collection of Delinquent Taxes on Manufactured Housing**

**To see if NHMA will SUPPORT** legislation to create a study commission to address municipal concerns regarding delinquent property taxes and/or municipal utility fees on manufactured housing on land of another. Such commission to include appropriate interested stakeholders. **Existing policy.**

#### **8. Tax Exemptions for Charitable Organizations**

**To see if NHMA will SUPPORT** creating a commission to study reimbursement through payments in lieu of taxes (PILOTs) for municipal services provided to exempt charitable properties, including charitable non-profit housing projects under RSA 72:23-k, and **SUPPORT** reimbursement from the state for the costs of municipal services provided to state-owned properties. **Revised by the committee to combine two existing policies.**

## **9. Clarification of Elderly Exemption, Prorating Disabled, Deaf and Blind Exemptions**

**To see if NHMA will SUPPORT**

- a) Changes in RSA 72:39-a, 72:29, and 72:39-b to define “household income” for elderly exemption qualification consistent with the definition of “household income” used by the state in qualifying residents for the Low & Moderate-Income Homeowners Property Tax Relief Program under RSA 198:56-57 and Rev 1200; and
- b) Legislation prorating the disabled, deaf and blind exemptions under RSA 72:37, 37-b, and 38-b when a person entitled to the exemption owns a fractional interest in the residence, in the same manner as is allowed for the elderly exemption under RSA 72:41.

**Revised by the committee to combine two existing policies.**

## **Standing Policy Recommendations**

### **10. Assessment Methodology for Big Box Stores**

**To see if NHMA will SUPPORT** legislation clarifying the assessment methodology for big box stores if used and occupied for the purpose for which they were built. This methodology would not employ comparisons to “dark store” properties abandoned or encumbered with deed restrictions on subsequent use.

**Explanation:** Large box stores such as Walmart, Lowe’s, Home Depot, Target, etc. have been successful in other states in obtaining large assessment reductions by using comparable sales or rentals of abandoned or deed-restricted properties. **Submitted by: Kathryn Temchack, Director of Real Estate Assessments, City of Concord.**

### **11. Income Approach on Appeal**

**To see if NHMA will SUPPORT** legislation that prohibits the use of the income approach by a taxpayer in any appeal of value if the taxpayer, after request by the municipality, has not submitted the requested information. **Existing policy.**

### **12. Charitable Definition and Mandated Property Tax Exemptions**

**To see if NHMA will OPPOSE** legislation that expands the definition of “charitable” in RSA 72:23-/, unless the state reimburses municipalities for the loss of revenue. **Existing policy.**

### **13. Sale of Tax Deeded Property**

**To see if NHMA will SUPPORT** amending RSA 80:89 to require proof that the municipality *sent* the required notice of impending tax deed rather than proof that the taxpayer actually *received* the notice. **Existing policy.**



#### **14. State Revenue Structure and State Education Funding**

To see if NHMA will **SUPPORT** asking the state to use the following principles when addressing the state's revenue structure in response to its responsibility to fund an adequate education:

- That revenues are sufficient to meet the state's responsibilities as defined by constitution, statute, and common law;
- That revenue sources are predictable, stable, and sustainable and will meet the long-term needs and financial realities of the state;
- That changes to the revenue structure are least disruptive to the long-term economic health of the state;
- That the revenue structure is efficient in its administration;
- That changes in the revenue structure are fair to people with lower to moderate incomes.

Further, to see if NHMA will **SUPPORT** legislation prohibiting retroactive changes to the distribution formula for adequate education grants, after the notice of grant amounts has been given. **Existing policy.**

#### **15. Changes to the Official Ballot Process and Default Budget**

To see if NHMA will **OPPOSE** changes to the official ballot process (SB2) including changes to the calculation of the default budget, unless such changes are a local option presented to the legislative body for approval. **Revised by the committee (existing policy opposed any increase in the 60% bond vote requirement in SB 2 municipalities).**

### **Infrastructure, Development and Land Use**

#### **Action Policy Recommendations**

##### **1. Municipal Use of Structures in the Right-of-Way**

To see if NHMA will **SUPPORT** legislation granting municipalities a designated space to use for any purpose, including leasing to a private entity, upon all poles, conduit, and other structures within the rights-of-way without paying make-ready costs. This includes a requirement that the owners of utility poles and conduit do the necessary work to make that space available. **Existing policy, revised by the committee.**

## 2. Municipal Authority to Adopt More Recent Codes

To see if NHMA will SUPPORT legislation enabling municipalities at their discretion to adopt more recent editions of national/international building and fire codes than the current state-adopted editions.

**Explanation:** Allowing municipalities to adopt current codes will promote best practices for health, safety, and welfare. Submitted by Portsmouth City Council.

## 3. Municipal Cooperation

To see if NHMA will SUPPORT legislation clarifying that municipalities and other political subdivisions may cooperate to perform together any functions that they may perform individually, including but not limited to providing services, raising revenue, constructing and maintaining infrastructure, and engaging in economic development efforts. Existing policy.

# Priority Policy Recommendations

## 4. Regulation of Short-Term Rentals

To see if NHMA will SUPPORT legislation authorizing municipalities to regulate short-term rental of residential properties, including licensing requirements and health and safety protections. This should not be interpreted to limit existing authority to regulate such uses through municipal zoning ordinances and land use regulations.

**Explanation:** Municipalities across the country are increasingly forced to address problems associated with short-term rental of residential housing units, which are typically facilitated through the online platforms of AirBnB, VRBO, Home Away, and others. Problems arise often in single-family residential neighborhoods, in which transient residential occupancy introduces instability and conflict (e.g., noise complaints with no recourse other than to call the police).

Some jurisdictions have already addressed this through legislation, sometimes accompanied by comprehensive agreements with the online platform operators to submit to regulation. A related issue is whether the state is able to collect meals and rooms tax for such temporary uses, which are similar in some regards to B&B operations and hotels/motels. Submitted by Ben Frost, Planning Board Chairman, Town of Warner.

## 5. Highway Funding

To see if NHMA will SUPPORT a state transportation policy that ensures adequate and sustainable funding for state and municipal highways and bridges to promote safe and reliable transportation and corridors and economic development for the citizens of our state and for the travelling public. The policy should include:

- Maintenance of the proportionate share of the state highway fund that is distributed to cities and towns under current law;

- No further diversion of state highway funds for non-highway purposes; and
- Increased funding, which may include the state road toll, highway tolls, local option fees, user assessments, and other revenue sources as necessary.

**Existing policy, revised by the committee.**

## **6. Water Quality and Infrastructure**

**To see if NHMA will SUPPORT** legislation that ensures adequate and sustainable investment to maintain or make necessary improvements to the state’s critical water infrastructure (public drinking water, wastewater, and stormwater systems, and dams); that works to provide affordable water, wastewater, and stormwater services; that encourages regional and innovative solutions to water, wastewater, and stormwater issues; that supports decisions that rely on science-based standards; that supports local decision making; and that supports economic progress in the state while protecting public health and safety. **Combination of existing policies, revised by the committee.**

## **7. State Adoption of Building and Fire Codes**

**To see if NHMA will SUPPORT** a policy encouraging the state to: (1) adopt updated editions of national/international building and fire codes; (2) streamline the code adoption process while facilitating examination of changes that benefit the state economy; (3) encourage training opportunities for local code enforcement personnel.

**Explanation:** Multiple versions of codes are confusing for all parties. The state’s adoption of updated codes would simplify municipal decision making in scheduling code ordinance updates. The quality of enforcement varies significantly among municipalities due to different levels of experience and training. Better training would lead to more consistent enforcement. **Submitted by Portsmouth City Council.**

## **Standing Policy Recommendations**

### **8. Current Use**

**To see if NHMA will OPPOSE** any legislative attempt to undermine the basic goals of the current use program and **OPPOSE** any reduction in the 10-acre minimum size requirement for qualification for current use, beyond those exceptions now allowed by the rules of the Current Use Board. **Existing policy.**

### **9. Scientific/Technical Standards for Regulatory Legislation**

**To see if NHMA will OPPOSE** regulatory legislation that is not based on relevant scientific and technical standards that are broadly accepted by peer review and feasibly achieved.

**Explanation:** In the past legislative session, bills were filed that attempted to supersede standards set by regulatory agencies without the applicable deliberation and processes associated with creating regulations. **Submitted by Portsmouth City Council.**

**10. Land Use and Environmental Regulation and Preemption**

To see if NHMA will **SUPPORT** legislation that (a) recognizes municipal authority over land use and environmental matters, (b) limits the establishment of comprehensive statutory schemes that supersede local regulation, and (c) recognizes that even when local environmental regulation is preempted, compliance with other local laws, such as zoning and public health ordinances and regulations, is still required. **Existing policy.**

**11. Energy, Renewable Energy and Energy Conservation**

To see if NHMA will **SUPPORT** legislation encouraging state and federal programs that provide incentives and assistance to municipalities to adopt energy use and conservation techniques that will manage energy costs and environmental impacts, promote the use of renewable energy sources, and promote energy conservation, and **OPPOSE** any legislation that overrides local regulation. **Existing policy.**

**12. Oppose Statewide Zoning Mandates**

To see if NHMA will **SUPPORT** a policy recognizing the legislature's authority to establish statewide priorities in zoning and land use regulation, but **OPPOSE** legislation that limits reasonable local control in implementing those priorities, or that unreasonably mandates specific criteria that municipalities must follow. **Existing policy, revised by the committee.**

**13. Conservation Investment**

To see if NHMA will **SUPPORT** permanent funding for the Land and Community Heritage Investment Program and **OPPOSE** any diversion of such funds to other uses. **Existing policy.**