

HOUSE CALENDAR
WEDNESDAY, JANUARY 3
CONSENT CALENDAR

COMMERCE AND CONSUMER AFFAIRS

HB 427, allowing hobby distillation of liquors. INEXPEDIENT TO LEGISLATE.

Rep. Edward Butler for Commerce and Consumer Affairs. The Commerce Committee is often supportive of the growth of businesses and hobbyists regarding the distillation and brewing of alcoholic beverages. However our hands are tied when it comes to allowing the home distillation of spirits because a permit from the federal Alcohol and Tobacco Tax and Trade Bureau is required. Vote 12-1.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 80, relative to the administration of building code enforcement. INEXPEDIENT TO LEGISLATE.

Rep. Steven Beaudoin for Executive Departments and Administration. This bill would transfer the enforcement of building codes to the Public Utilities Commission, an organization with no enforcement capability. After five work sessions with stakeholders, the committee agreed that this bill would not accomplish the sponsors' intent, nor improve building code compliance in the state. Vote 17-0.

HB 369-FN, relative to the amortization of retirement system unfunded accrued liability. INEXPEDIENT TO LEGISLATE.

Rep. Jeffrey Goley for Executive Departments and Administration. This bill would have extended the amortization for the unfunded accrued liability of the NH Retirement System from 30 to 40 years. Extending the amortization period another 10 years may sound good because it will lower payments for cities and towns, but by extending the time to pay off the unfunded accrued liability, the amount of money that cities and towns end up paying over time will significantly increase. Due to the increased costs to cities and towns, the committee recommends that this bill be found Inexpedient to Legislate. Vote 17-0.

WEDNESDAY, JANUARY 3

REGULAR CALENDAR
PART ONE

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 366-FN, relative to the calculation of average final compensation under the retirement system for certain members. INEXPEDIENT TO LEGISLATE.

Rep. Henry Marsh for Executive Departments and Administration. This bill would delete a cost saving pension provision that applies to retirement system members who started working on or after July 1, 2011 or were not vested before January 1, 2012. This limitation prevents artificially spiking one's pension by working additional overtime late in one's career, while being fair to those who work considerable overtime throughout their working life. This "spiking" can create increased costs to the pension system by increasing final pay beyond that anticipated, with no time for contributions for this compensation to compound. The committee, and the sponsor, recommended this bill as Inexpedient to Legislate due to the fiscal impact. Vote 11-5.

**REGULAR CALENDAR
PART TWO**

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 92, revising the definition of the state building code and ratifying changes to the state building code adopted by the state building code review board. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.

Rep. Steven Beaudoin for the Majority of Executive Departments and Administration. This bill not only updates the building code, but adds a suite of new codes including plumbing, mechanical, pool & spa, existing building, and energy code. During testimony, the committee learned that this round of codes would increase the cost of building a new home or structure by approximately 12%. Since NH suffers from a severe shortage of affordable housing, the majority found no need to add to the problem. Further, since the state building codes only set the minimum standards, businesses and homebuilders are free to build to the new codes, if they wish to enjoy additional energy savings or use new building techniques and materials. Vote 10-7. Rep. Carol Roberts for the Minority of Executive Departments and Administration. This bill, with the amendment, would update the codes that comprise the state building code from the 2009 to the 2015 versions, with the exception of the International Energy Conservation Code. New Hampshire is in danger of being one of only 12 states using codes that are at least two cycles (6 years) old. This change has the support of all the building trades; the related professional organizations; and several state agencies. The minority is concerned about ignoring the real and the intangible costs of not building to current code, and fears for the health and safety of the public.

HB 168, relative to the definition of the New Hampshire fire code. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. Steven Beaudoin for the Majority of Executive Departments and Administration. This bill would adopt the 2015 version of NFPA 1, the Fire Safety Code, and by default, the 2012 version as well. Along with the hundreds of code compliance requirements explicit in the documents, they incorporate by reference 15 more codes not currently adopted, adding dozens of regulated areas and over 2300 pages of new regulations. The majority felt that NH's business climate would suffer from this new round of expensive regulation. The committee heard compelling testimony to adopt only one section of the code, protection from the life safety dangers of lightweight construction during a fire. The majority believes this single issue can be appropriately addressed in rules adopted by the Fire Safety Board or the Building Code Review Board, since it is within their existing authority. The other new requirements had no demonstrated need for adoption. Vote 10-7. Rep. Carol Roberts for the Minority of Executive Departments and Administration. The 2009 Fire Code is the prevailing fire and life safety code in New Hampshire. Many states have adopted the 2015 edition of this code. This bill would move New Hampshire to the 2015 code. It is important to realize that fire insurance rates may be increased when a state does not operate under the newest codes. Reviewing and updating codes in a timely way leads to new code sets that are not overwhelming to decipher. The eleven members of the Board of Fire Control support this bill. This board is responsible for providing advice on fire safety codes, reports to the governor and brings their experience in industry, construction standards, engineering, propane gas distribution as well as management of fire personnel to the table. The Minority holds that life and fire safety codes are crucial; and furthermore, life safety issues addressed in the 2015 code were previously unknown to the building community. It is in the best interest of all citizens when the newest fire and safety code is in place.

FINANCE

HB 413-FN-A-LOCAL, relative to payment by the state of a portion of retirement system contributions of political subdivision employers. INEXPEDIENT TO LEGISLATE.

Rep. J. Tracy Emerick for Finance. This bill is relative to payment by the state of a portion of retirement system contributions of political subdivision employers. As part of the budgeting process, payment of a percent of retirement payments was discussed and dismissed as an uncontrollable cost to the state. An amount of \$50 million was included in the house budget for distribution to municipalities to offset rising taxes, in lieu of a percentage payment. This funding did not make it through the budgeting process and was not included in the final budget signed by the Governor. Vote 17-9.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

HB 407-FN, requiring workers' compensation to cover prophylactic treatment for exposure. OUGHT TO PASS WITH AMENDMENT.

Rep. Brian Seaworth for Labor, Industrial and Rehabilitative Services. Public Health Law (RSA 141-G) places certain mandates on employers when an emergency responder or public safety worker is exposed to infectious diseases during the course of their work. In addition to reporting requirements, employers must provide testing, preventative treatment, and follow-up care to those who have unprotected exposure. RSA 141-G does not, however, speak to the mechanism by which such treatment is paid. Workers' Compensation covers some pieces of this, and would fully cover providers who actually become sick. Other aspects of this requirement, in particular that for prophylactic treatment, has resulted in denied Workers' Compensation claims. This bill as amended requires that all mandated treatments be covered under Workers Comp. The amendment simplified the original bill by leaving the details to be defined by RSA 141-G, incorporating them by reference. Vote 19-0.

Amendment to HB 92 (2017-2490h)

Proposed by the Minority of the Committee on Executive Departments and Administration

Amend the bill by replacing section 2 with the following: 2 Definition of State Building Code. Amend RSA 155-A:1, IV to read as follows:

IV. "New Hampshire building code" or "state building code" means the adoption by reference of the International Building Code [2009] 2015, the International Existing Building Code [2009] 2015, the International Plumbing Code [2009] 2015, the International Mechanical Code [2009] 2015, the International Energy Conservation Code 2009, the International Swimming Pool and Spa Code 2015, and the International Residential Code [2009] 2015, as published by the International Code Council, and the National Electrical Code 2014, as amended by the state building code review board and ratified by the legislature in accordance with RSA 155-A:10. The provisions of any other national code or model code referred to within a code listed in this definition shall not be included in the state building code unless specifically included in the codes listed in this definition.

Amend section 4 of the bill by deleting paragraph V and renumbering the original paragraphs VI-VII to read as V-VI, respectively.

2017-2490h AMENDED ANALYSIS This bill:

- I. Updates the definition of the state building code to include the 2015 editions of the International Building Code, the International Existing Building Code, the International Plumbing Code, the International Mechanical Code, and the International Residential Code.
- II. Amends the definition of the state building code to include the International Swimming Pool and Spa Code 2015.
- III. Ratifies changes to the state building code adopted by the state building code review board in 2015 and 2016.

**THE SENATE WILL CONVENE ON WEDNESDAY, JANUARY 3, 2018 AT 10:00 A.M.
AND THE SENATE WILL MEET IN SESSION ON THURSDAY, JANUARY 4, 2018**

CONSENT CALENDAR REPORTS

EXECUTIVE DEPARTMENTS AND ADMINISTRATION SB 55, relative to backflow devices for water. Ought to Pass with Amendment, Vote 5-0.

Senator Reagan for the committee. The bill, as amended, clarifies duties and responsibilities within the appropriate statutes and removes from statute the ability of the Fire Marshal, Deputy Fire Marshal, or fire investigator within the Division of Public Safety the authority to detain and make arrests as a peace officer pursuant to RSA 594.

REGULAR CALENDAR REPORTS

EXECUTIVE DEPARTMENTS AND ADMINISTRATION HB 561-FN, relative to contributions by retirement system employers for certain full-time positions changed to part-time or interim employment and relative to enforcement of provisions concerning retired members working part-time after retirement. Ought to Pass with Amendment, Vote 3-2.

Senator Carson for the committee.

Amendment to SB 55

Amend the title of the bill by replacing it with the following: AN ACT relative to the servicing of backflow devices and arrest powers of fire marshals.

Amend the bill by replacing all after the enacting clause with the following:

1 Backflow Device Requirements. Amend RSA 485:11 to read as follows:

485:11 Backflow Device Requirements and Tests, Installations, Repairs and Replacements. There shall be a backflow prevention device installed at every connection to a public water system if the facility connected may pose a hazard to the quality of water supplied by the public water system as determined by the department. Where applicable, the facility receiving water from a public water supply shall be responsible for having such drinking water distribution system protective backflow prevention devices inspected and tested by individuals certified by a third party who has been approved by the department to conduct backflow device inspection and testing certification. The facility shall also have backflow devices installed, maintained, repaired, and replaced by individuals qualified by either a plumbers license or by certification by the department under RSA 332-E:3, III proving competency in distribution system operation. The activities to be conducted by individuals qualified [individuals] by certification by the department shall be specifically limited to: (a) the inspection and testing, maintenance, repair, [or] replacement, removal, and installation of the water meters, meter horns, backflow preventers, and assembly devices directly adjacent to and required as part of the protection for the drinking water distribution system; and (b) the testing, maintenance, repair, replacement, or removal of such devices which are not directly adjacent to the drinking water distribution system. Testing of drinking water distribution system protective backflow prevention devices, where applicable, shall occur after installation or repair to ensure that new and repaired devices are working properly. There shall be a backflow prevention device installed at every connection to a public water system if the facility connected may pose a hazard to the quality of water supplied by the public water system as determined by the department of environmental services. The facility receiving water from a public water supply

shall be responsible for having such backflow prevention devices installed, serviced, and tested by individuals qualified by license or certification to perform these activities. Testing of backflow devices shall occur twice annually unless the public water supplier determines the facility poses a low hazard, in which case testing shall be performed on an annual basis. The facility receiving water from a public water supplier is responsible for ensuring that the backflow prevention [device is] devices are working properly to prevent backflow into the public water system. Testing shall also occur twice annually for any high hazard devices and facilities. When the public water supplier determines that the facility poses a low hazard, testing shall occur annually. A residential property containing a non-testable device shall not be considered a hazard facility and shall not require annual testing. A residential property may be considered a high hazard facility if it has an irrigation system, private well connection, or other feature that may cause a public health risk. If an outside irrigation system is the sole reason a residential property is considered a hazard to the public water supply distribution system, such irrigation system shall be tested annually during the period when the irrigation system is operated. The facility receiving water from a public water supplier is responsible for ensuring that the backflow prevention [device is] devices are working properly to prevent backflow into the public water system.

2 Exceptions; License Requirements. Amend RSA 153:36, IV to read as follows:

IV. The license requirements of this subdivision shall not apply to employees of public drinking water systems and public water system operators certified by the department of environmental services for drinking water treatment plants and distribution systems, when performing plumbing tasks within their certifications, as defined in RSA 485:11 and RSA 332-E:3. This exception is specifically limited to the testing, maintenance, repair, [or] replacement, removal, and installation of the water meter, meter horn, and backflow prevention devices directly adjacent to and required as part of the protection of the drinking water distribution system and the testing, maintenance, repair, or replacement of such devices which are not directly adjacent to the drinking water distribution system.

3 Duties of Commissioner. Amend RSA 21-P:4, V to read as follows:

V. Have discretion to grant to the state fire marshal and any deputy fire marshal or fire investigator within the division of public safety the authority [to detain and make arrests as a peace officer pursuant to RSA 594,] to serve criminal processes, to enforce the rules adopted under RSA 153:4-a and RSA 153:5, and to enforce RSA 154:7-a in order to promote the efficient discharge of such persons' lawful duties. Except for fire investigators under RSA 154:7-a, the commissioner shall assure in granting the authority provided in this paragraph that any person so designated has received appropriate law enforcement training through a program approved by the police standards and training council. Whenever persons [authorized as peace officers] under this paragraph are involved in the investigation of felonies or cases involving death due to fires, [or whenever an arrest is to be made,] such persons shall as soon as practicable notify a law enforcement agency having jurisdiction in the geographical area where the [arrest or] investigation is to take place.

4 Effective Date. This act shall take effect 60 days after its passage.

2017-2550s

AMENDED ANALYSIS

This bill allows individuals certified by the department of environmental services to do so, to perform services on backflow devices that are not directly adjacent to a drinking water distribution system. This bill also removes the power to detain and arrest from fire marshals.

Amendment to HB 561-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to part-time employment of a retirement system retiree by a participating employer.

Amend the bill by replacing all after the enacting clause with the following:

1 Retirement System; Definition; Part-Time.

Amend RSA 100-A:1, XXXIV to read as follows: XXXIV. "Part-time" for purposes of employment of a retired member of the New Hampshire retirement system but excepting per diem court security officers and court bailiffs, means employment [during a calendar year] by one or more participating employers of the retired member which shall not exceed [32 hours in each normal calendar week. Employment in some instances may exceed 32 hours in any normal calendar week provided that in such case, the part-time employment of the retired member shall not exceed 1,300 hours in a calendar year, so long as such part-time employment does not occur outside of a 5-consecutive-month period in any 12-month period.] 1,040 hours in a calendar year. Notwithstanding the foregoing, no retired member shall be employed on a part-time basis by any participating employer for a period of 60 days from the member's effective date of retirement.

2 Restoration to Service; Working After Retirement.

Amend RSA 100-A:7 to read as follows: 100-A:7 [Restoration to Service] Working After Retirement; Exceeding Part-time Hourly Limit. I. [If a disability beneficiary or any other beneficiary is] Any retired member returning to work for a participating employer in a position requiring mandatory membership pursuant to RSA 100A:3 shall be restored to service[,] and the [beneficiary's] retiree's retirement allowance shall cease, the [beneficiary] retiree shall again become a member of the retirement system and the [beneficiary] retiree shall contribute at the percentage payable pursuant to RSA 100-A:16, I(a). Anything herein to the contrary notwithstanding, any credit for membership service and for any prior service on the basis of which the [beneficiary's] retired member's creditable service was computed at the time of [the beneficiary's] his or her former retirement shall be restored to full force and effect; upon subsequent retirement, the [beneficiary] retiree shall receive a retirement allowance based on [the beneficiary's] his or her combined creditable service and [the member's] average final compensation. II. Any retired member who, in any calendar year, works part-time for one or more participating employers and exceeds the maximum permitted hours as provided in RSA 100-A:1, XXXIV, shall forfeit the state annuity portion of his or her retirement allowance, and any allocable cost of living adjustments, with such forfeiture commencing as soon as administratively feasible in the next calendar year and continuing for a period of 12 months.

3 Annual Notice Required. Amend RSA 100-A:7-a to read as follows: 100-A:7-a Certain Part-Time Employment; Notice Required. The retirement system shall annually provide written notice to all retired members of the retirement system of the [hourly] limitations on part-time employment as defined in RSA 100-A:1, XXXIV and the potential effect that exceeding such hourly limitations could have on the retired member's retirement benefits, including restoration to service as required in RSA [100-A:7] 100-A:7, I and the forfeiture of the state annuity portion of his or her retirement allowance for exceeding the maximum permitted part-time hours under RSA 100-A:7, II.

4 Retirement System; Employer Reports. Amend RSA 100-A:16, VII(a) to read as follows: VII.(a) Every employer shall report to the retirement system [monthly] annually, in a format provided by the retirement system, all compensation paid by, and the total hours worked for, the employer [to retired members] by each retired member of the retirement system, including the name of, and the total hours worked, for each retired member of the retirement system, except that an employer shall not include in the report the compensation and hours worked by a retiree for serving as an elected state official or as an elected official of a political subdivision in either a group I or group II position.

5 Application to Existing Employment Contracts. The amendments to the provisions of RSA 100-A made by this act shall not apply to service after retirement by a retired member pursuant to a valid

employment contract effective as of the effective date of this act, but shall apply upon the expiration of such employment contract.

6 Repeal. RSA 100-A:7-b, relative to an emergency exception from the weekly part-time limit on retiree employment, is repealed.

7 Effective Date. This act shall take effect January 1, 2019. 2017-2549s

AMENDED ANALYSIS

This bill changes the limit on part-time employment of a retirement system retiree to an annual 1,040 hourly limit and prohibits part-time employment in the first 60 days after retirement. The bill also establishes a penalty for retired members' exceeding the annual part-time hourly limit. This bill is a request of the decennial retirement commission under RSA 100-A:57.