

# Legislative Update: The Session Ahead

## For the New Hampshire Building Trades, the Election Kick-Starts the Process

**A**s in the past, the 2019 legislative year will be shaped by the coming general election and feature numerous initiatives aimed at construction law, land development and, directly or indirectly, home building. We take a look at a handful of the bills from last session likely to reemerge in the coming year.

### Creating a Housing Appeals Board

Senate Bill 557, sponsored by Sen. Bob Giuda (R-Warren), proposed the creation of an administrative tribunal to hear and decide developer appeals from local land use decisions. At present, the State Superior Court is the only forum for such appeals – an appellate track that is known to impose delay, expense and, ultimately, uncertainty.

The House Appeals Board would present a new option for bringing an appeal. As a housing-oriented forum, full-time commissioners would be subject matter experts. The proposed board would be loosely modeled upon the existing Board of Tax and Land Appeals, which offers an alternative to the State Superior Court for tax abatement appeals.

Last year, a division of the House Finance Committee diverted the legislation to interim study. Interim study is a means of “holding” a piece of legislation so that further work and discussion can continue. This fall, legislators announced a renewed interest in supporting a further bill. Legislation will again be sponsored to enable the creation of the Board.

→ Because the delays associated with conventional appeals can often kill or harm otherwise successful development proposals, the NHHBA SUPPORTS the creation of a Housing Appeals Board. NHHBA will continue to advocate for the passage of legislation.

### Relative to the Department of Transportation’s Permitting Procedures

Senate Bill 464, sponsored by Sen. Sharon Carson (R-Londonderry), would have imposed new and strict timelines upon the Department of Transportation’s review of infrastructure modification applications. Private developers often propose new or redeveloped improvements that have a direct connection to a state highway. In these instances, the developer must obtain a permit from the Department of Transportation (DOT) to create, alter or modify intersections with state highways. This process is often cumbersome, expensive and open-ended. SB 464 attempted to streamline the DOT application process by imposing a new review clock with real deadlines.

Concerns regarding the impact of reform upon the department caused the House Public Works Committee to send the bill to interim study for further discussion. As a consequence, a study committee has recently held several meetings to shape and recommend further legislation.

→ As these types of review timelines have proven effective in the context of environmental permitting, the NHHBA SUPPORTS the establishment of review timelines. NHHBA will continue to track and advocate for reform.

**Members of the NHHBA are encouraged to take an active role in pending legislation affecting the homebuilding industry.**

## Relative to Regulatory Reforms

House Bill 1104, sponsored by Rep. Dick Hinch (R-Merrimack), is the central work product of Governor Sununu's Regulatory Reform Steering Committee. Amid a list of business-friendly reforms, the highlights relevant to the building trades included:

- (a) enabling of a "certified application preparer program" to streamline minimum impact wetlands applications;
- (b) reduced and enhanced environmental permitting timelines and procedures; and,
- (c) licensure reciprocity with other state jurisdictions for occupational or professional licenses.

HB 1104 passed the Legislature, and was signed into law by the Governor on June 21, 2018. This new legislation takes effect January 1, 2019.

→ *The NHHBA SUPPORTED passage of HB 1104, and looks forward to its various procedural improvements.*

## Establishing a Committee to Examine the State's Adoption of National Codes

House Bill 1254, sponsored by Rep. Steve Beaudoin (R-Rochester), proposed examination of the state's existing process for considering and adopting national building and life-safety codes. At present, national codes are considered and, potentially, adopted by act of the legislature. Meanwhile, the State Building Code Review Board (BCRB) and the State Fire Control Board (FCB) maintain subject matter jurisdiction over recommendations and local New Hampshire amendments. The process can be confusing for the regulated public, as local amendments are immediately effective, but must be ratified by the Legislature after adoption to remain effective.

HB 1254 was enacted and the study committee has met regularly during the fall. The committee is likely to recommend further legislation aimed at a more meaningful vetting process for code changes and local amendments. Specifically, the committee has discussed a more structured cost/benefit analysis relating to proposed code requirements and increased expenses to builders and consumers.

→ *The NHHBA SUPPORTED passage of HB 1254, and looks forward to examining the Committee's findings and recommendations.*

## Conclusion

As the general election occurs, and the next legislative session commences, NHHBA will continue to track and help shape both reemerging proposals and new legislation. The fate of the above-mentioned ideas, and the new bills that emerge from their sponsoring legislators, can be tracked using the New Hampshire General Court website at [www.gencourt.state.nh.us](http://www.gencourt.state.nh.us).

Members of the NHHBA are encouraged to take an active role in pending legislation affecting the homebuilding industry. Members should consider attending meetings of the NHHBA's Government Affairs Committee and to offering testimony at public hearings relating to pending legislation. 🏠



Ari B. Pollack is an attorney and lobbyist employed with Gallagher, Callahan and Gartrell, P.C. in Concord, New Hampshire. Ari is the long-time lobbyist for the New Hampshire Homebuilders Association, and focuses his private practice on New Hampshire land use development, state and local land and environmental permitting, and construction law.